



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
CAMERON STATION
ALEXANDRIA, VIRGINIA 22304-6100

DLAR 5400.14

DLA-XAM

DLA REGULATION
NO. 5400.14

13 Mar 92

DLA FREEDOM OF INFORMATION ACT PROGRAM
(RCS DD-PA(A)1365)

(Supplementation is permitted at all levels.)

I. REFERENCES. See enclosure 1.

II. PURPOSE AND SCOPE. This regulation provides policies and procedures for the DLA implementation of DoD 5400.7-R, DoD Freedom of Information Act (FOIA) Program. It applies to HQ DLA and all DLA field activities and takes precedence over all DLA regulations that supplement the FOIA program. A list of mailing addresses for DLA activities is provided at enclosure 8.

III. POLICY

A. General. The public has a right to information concerning the activities of its Government. DLA policy is to conduct its activities in an open manner and provide the public with a maximum amount of accurate and timely information concerning its activities, consistent always with the legitimate public and private interests of the American people. A DLA record requested by a member of the public who follows rules established herein shall be withheld only when it is exempt from mandatory public disclosure under the FOIA. In order that the public may have timely information concerning DLA activities, records requested through public information channels by news media representatives that would not be withheld if requested under the FOIA should be released upon request. Prompt responses to requests for information from news media representatives should be encouraged to eliminate the need for these requesters to invoke the provisions of the FOIA and thereby assist in providing timely information to the public. Similarly, requests from other members of the public for information should continue to be honored through appropriate means even though the request does not qualify under FOIA requirements.

B. Control System. A request for records that invokes the FOIA shall enter a formal control system

designed to ensure compliance with the FOIA. A release determination must be made and the requester informed within the time limits specified in this regulation. Any request for DLA records that either explicitly or implicitly cites the FOIA shall be processed under the provisions of this regulation, unless otherwise required by paragraph M, below.

C. Compliance with the FOIA. DLA personnel are expected to comply with the FOIA and this regulation in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DLA FOIA Program and to create conditions that will promote public trust.

D. Openness with the Public. DLA shall conduct its activities in an open manner consistent with the need for security and adherence to other requirements of law and regulation. Records not exempt from disclosure under the Act shall, upon request, be made readily accessible to the public in accordance with rules promulgated herein, whether or not the Act is invoked.

E. Avoidance of Procedural Obstacles. DLA activities shall ensure that procedural matters do not unnecessarily impede a requester from obtaining DLA records promptly. DLA activities shall provide assistance to requesters to help them understand and comply with procedures established by this regulation and any supplements published by the DLA primary level field activities (PLFAs).

F. Prompt Action on Requests. When a member of the public complies with the procedures established in this regulation for obtaining DLA records, the request shall receive prompt attention; a reply shall be dispatched within 10 working days unless a delay is authorized. When a DLA activity has a significant number of requests, e.g., 10 or more, the requests

shall be processed in order of receipt. However, this does not preclude an activity from completing action on a request which can be easily answered, regardless of its ranking within the order of receipt. A DLA activity may expedite action on a request regardless of its ranking within the order of receipt upon a showing of exceptional need or urgency. Exceptional need or urgency is determined at the discretion of the activity processing the request.

G. Public Domain. Nonexempt records released under the authority of this regulation are considered to be in the public domain. Such records may also be made available in reading rooms to facilitate public access. Exempt records released pursuant to this regulation or other statutory or regulatory authority, however, may be considered to be in the public domain only when their release constitutes a waiver of the FOIA exemption. When the release does not constitute such a waiver, such as when disclosure is made to a properly constituted advisory committee or to a Congressional committee, the released records do not lose their exempt status. Also, while authority may exist to disclose records to individuals in their official capacity, the provisions of this regulation apply if the same individual seeks the records in a private or personal capacity.

H. Creating a Record

1. There is no obligation to create nor compile a record to satisfy an FOIA request. A DLA activity, however, may compile a new record when doing so would result in a more useful response to the requester or be less burdensome to the activity provided the requester does not object. The cost of creating or compiling such a record may not be charged to the requester unless the fee for creating the record is equal to or less than the fee which would be charged for providing the existing record. Fee assessments shall be in accordance with enclosure 4.

2. With respect to electronic data, the issue of whether records are actually created or merely extracted from an existing database is not always readily apparent. Consequently, when responding to FOIA requests for electronic data where creation of a record, programming, or particular format are questionable, DLA activities should apply a standard of reasonableness. In other words, if the capability exists to respond to the request, and the effort would be a business-as-usual approach, then the request

should be processed. However, the request need not be processed where the capability to respond does not exist without a significant expenditure of resources, thus not being a normal business-as-usual approach.

I. Description of the Requested Record

1. Identification of the record desired is the responsibility of the member of the public who requests a record. The requester must provide a description of the desired record that enables DLA to locate the record with a reasonable amount of effort. When a DLA activity receives a request that does not reasonably describe the requested record, it shall notify the requester of the defect. The requester may be asked to provide the type of information outlined in subparagraph 2, below. Activities are not obligated to act on the request until the requester responds to the specificity letter. When practicable, DLA activities shall offer assistance to the requester in identifying the records sought and in reformulating the request to reduce the burden on the agency in complying with the Act.

2. The following guidelines are provided to deal with "fishing expedition" requests and are based on the principle of reasonable effort. Descriptive information about a record may be divided into two broad categories.

a. Category I is file-related and includes information such as type of record (for example, memorandum), title, index citation, subject area, date the record was created, and originator.

b. Category II is event-related and includes the circumstances that resulted in the record being created or the date and circumstances surrounding the event the record covers.

3. Generally, a record is not reasonably described unless the description contains sufficient Category I information to permit the conduct of an organized, nonrandom search based on the activity's filing arrangements and existing retrieval systems, or unless the record contains sufficient Category II information to permit inference of the Category I elements needed to conduct such a search. The decision of the DLA activity concerning reasonableness of description must be based on knowledge of its files. If the description enables DLA activity personnel to locate the record with reasonable effort, the description is adequate.

4. The following guidelines deal with requests for personal records. Ordinarily, when only personal identifiers are provided in connection with a request for records concerning the requester, then only records retrievable by personal identifiers need be searched. The search for such records may be conducted under Privacy Act procedures contained in DLAR 5400.21, Personal Privacy and Rights of Individuals Regarding Their Personal Records. No record may be denied that is releasable under the FOIA.

J. Possession and Control. A record must exist and be in the possession and control of DLA at the time of the search to be considered subject to this regulation and the FOIA. Mere possession of a record does not presume Agency control. Information created or originated by another activity shall be referred to that activity for release determination and direct response to the requester.

1. Referring Requests. A DLA activity having no responsive records to an FOIA request may refer the request to another DLA activity, DoD component, or Federal agency if, after consultation with such activity, component, or agency, the intended recipient confirms that it has the requested record. In cases where the DLA activity receiving the request has reason to believe that the existence or nonexistence of the record may in itself be classified, that activity shall consult the DoD component having cognizance over the record in question before referring the request. If the DoD component that is consulted determines that the existence or nonexistence of the record is in itself classified, the requester shall be so notified by the DLA activity originally receiving the request, and no referral shall take place. Otherwise, the request shall be referred to the other DoD component, and the requester shall be notified of any such referral. Any DLA activity receiving a request that has been misaddressed shall refer the request to the proper address and advise the requester.

2. Referring Records

a. Whenever a record or a portion of a record is, after prior consultation, referred to another DLA activity, DoD component, or to a Government agency outside of the DoD for a release determination and direct response, the requester shall be informed of the referral. Referred records shall only be identified to the extent consistent with security requirements.

b. A DLA activity shall refer an FOIA request for a classified record that it holds to another DoD component or agency outside the Department of Defense if the record originated in the other DoD component or outside agency or if the classification is derivative. In this situation, provide the record and a release recommendation on the record with the referral action.

c. A DLA activity may refer a request for a record that it originated to another DoD component or agency when the record was created for the use of the other DoD component or agency. The DoD component or agency for which the record was created may have an equally valid interest in withholding the record as the DLA activity that created the record. In such situations, provide the record and a release recommendation on the record with the referral action.

d. Within DLA, an activity shall ordinarily refer an FOIA request for a record that it holds but that was originated by another activity or that contains substantial information obtained from another activity, to that activity for direct response, after coordination and obtaining concurrence from the activity. The requester shall then be notified of such referral. DLA activities shall not, in any case, release or deny such records without prior consultation with the other activity.

3. On-Loan Documents. A DLA activity shall refer to the agency that provided the record any FOIA request for investigative, intelligence, or any other type of records that are on loan to DLA for a specific purpose if the records are restricted from further release and so marked. However, if, for investigative or intelligence purposes, the outside agency desires anonymity, a DLA activity may only respond directly to the requester after coordination with the outside agency.

4. General Accounting Office (GAO) Documents. On occasion, the DoD receives FOIA requests for GAO documents containing DoD information. Even though the GAO is outside the executive branch and not subject to the FOIA, all FOIA requests for GAO documents containing DoD information received either from the public or on referral from GAO will be processed under the provisions of the FOIA.

5. **Agencies Not Subject to the FOIA.** A DLA activity may refer an FOIA request for any record that originated in an agency outside the DoD or that is based on information obtained from an outside agency to the agency for direct response to the requester after coordination with the outside agency, if that agency is subject to FOIA. Otherwise, the DLA activity must respond to the request.

6. **Time to Respond.** DLA activities that receive referred requests shall answer them in accordance with the time limits established by the FOIA and this regulation. Those time limits shall begin to run upon proper receipt of the referral by the PLFA FOIA manager to respond.

7. **Accumulating Fees.** Requesters receiving the first two hours of search and the first 100 pages of duplication without charge (See enclosure 4) are entitled to such only once per request. Consequently, if a DLA activity, after completing its portion of a request, finds it necessary to refer the request to another DLA activity or another DoD component to action their portion of the request, the referring activity shall inform the recipient of the expended amount of search time and duplication cost to date.

K. **Requests for Authentication of Records.** FOIA requests for authentication of records shall be authenticated with an appropriate seal, whenever necessary, to fulfill an official Government or other legal function according to DLAR 5015.5, Attesting to the Authenticity of Defense Logistics Agency Records. This service, however, is in addition to that required under the FOIA and is not included in the FOIA fee schedule. DLA activities may charge for the service at a rate of \$5.20 for each authentication.

L. **Records Management.** FOIA records shall be maintained and disposed of in accordance with DLAM 5015.1, Files Maintenance and Disposition.

M. **Relationship Between the FOIA and the Privacy Act.** Not all requesters are knowledgeable of the appropriate statutory authority to cite when requesting records. In some instances, they may cite neither Act, but will imply one or both Acts. For these reasons, the following guidelines are provided to ensure that requesters receive the greatest amount of access rights under both Acts:

1. Requesters who seek records about themselves contained in a Privacy Act system of records and who

cite or imply the Privacy Act, will have their requests processed under the provisions of the Privacy Act (see DLAR 5400.21 and DLAH 5400.1, DLA Systems of Records Handbook).

2. Requesters who seek records about themselves which are not contained in a Privacy Act system of records and who cite or imply the Privacy Act, will have their requests processed under the provisions of the FOIA, since they have no access rights under the Privacy Act.

3. Requesters who seek records about themselves which are contained in a Privacy Act system of records and who cite or imply the FOIA or both Acts will have their requests processed under the time limits of the FOIA and the exemption and fee provisions of the Privacy Act.

4. Requesters who seek access to Agency records and who cite or imply the Privacy Act, the FOIA, or both will have their requests processed under the FOIA.

5. Requesters should be advised in final responses why their request was processed under a particular act.

N. Reading Rooms

1. DLA activities may provide a facility or room where the public may inspect and copy or have copied the so-called "(a)(2)" material (see paragraph IVB). At those activities where it is impractical to set up a formal reading room, the FOIA manager will arrange for a review of (a)(2) material at a suitable time and location. Identifying details that, if revealed, would create a clearly unwarranted invasion of personal privacy may be deleted from (a)(2) materials prior to placement in reading rooms. However, in every case, justification for the deletion must be fully explained in writing. The public's right to inspect first and then decide what is to be copied applies only to (a)(2) material. Activities may elect to place other documents in their reading room, including so-called "(a)(1)" material (see paragraph IVA), as a means to provide public access to such documents and allow the public to first inspect them before copying. When appropriate, the cost of copying may be imposed on the person requesting the material in accordance with the provisions of enclosure 4 of this regulation.

2. (a)(2) Materials Index: Each activity maintaining a reading room shall maintain an index of the (a)(2) materials that are issued, adopted, or promulgated after 4 July 1967. No (a)(2) materials issued, promulgated, or adopted after 4 July 1967 that are not indexed and either made available or published may be relied upon or used or cited as precedent against any individual unless such individual has actual and timely notice of the contents of such materials. Each index shall be arranged topically or by descriptive words rather than by case name or numbering system so that members of the public can readily locate material. Case name and numbering arrangements, however, may also be included for the convenience of the DLA activity. Such materials issued, promulgated, or adopted before 4 July 1967 need not be indexed, but must be made available upon request if not exempted under this regulation.

3. DLA publications and PLFA supplements may, at the discretion of the DLA activity, be regarded as (a)(2) material and placed in reading rooms subject to the restrictions in paragraph O2, below. Otherwise, requests for publications will be handled according to paragraph O, below.

O. Publication of DLA Regulations, Manuals, Handbooks, and Uncontrolled Forms

1. Since most DLA publications are available to the public through the publications distribution sales outlet, the requester may be referred to that outlet.

2. Limited Distribution Publications: Requests for DLA publications which are classified, marked "FOR OFFICIAL USE ONLY," or have limited distribution statements will be referred to the issuing activity for release determination and, if appropriate, formal denial. Such publications will not be placed in reading rooms. However, where a public reading room also serves as an activity's library, restricted publications may be maintained provided they are appropriately safeguarded and not commingled with other nonsensitive regulations.

3. For DoD regulations, manuals, directives, handbooks and similar issuances, the FOIA manager may refer the requester to the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161-2171, in accordance with DoD 5025.1-I, DoD Directives System Annual Index.

P. Exemptions

1. General. Records that meet the exemption criteria in this regulation may be withheld from public disclosure and need not be published in the Federal

Register, made available in a reading room, or provided in response to an FOIA request. A discretionary release (see also paragraph G, above) to one requester may preclude the withholding of the same record under an FOIA exemption if the record is subsequently requested by someone else. DLA activities are cautioned that in applying exemptions, the identity of the requester and the purpose for which the record is sought are irrelevant with the exception that an exemption may not be invoked where the particular interest to be protected is the requester's interest. See enclosure 3 for a listing and description of the nine exemptions.

2. Use of Exemptions. It is DLA policy to make records publicly available unless they qualify for exemption under one or more of the nine exemptions. Activities may elect to make a discretionary release; however, a discretionary release is generally not appropriate for records exempt under exemptions 1, 3, 4, 6 and 7(C). Exemptions 4, 6 and 7(C) cannot be invoked to withhold information from a requester when the requester is the submitter of the information.

3. Partial Denials. If any part of a requested record is withheld, it is considered a partial denial. Exempt portions of a record shall be deleted and remaining portions that can reasonably be segregated shall be disclosed to the requester (see paragraphs VIIIG2 and VIIH).

4. Citing Exemptions. When denying all or part of a record, use the U.S. Code cite rather than the DLA regulation cite. The U.S. Code cites are at enclosure 3, ATT 1, Cross Reference Table.

Q. Requests for the Examination of DLA Records. Only those materials described as "(a)(2)" (and "(a)(1)" at the discretion of the PLFA head) are subject to the examination clause of the FOIA. Such requests will be submitted directly to the appropriate DLA activity listed in enclosure 8 of this regulation. FOIA managers will inform requesters of the location and time the requested record may be examined. Requesters may be charged for the cost to reproduce copies subject to the guidelines in enclosure 4.

R. Requests for Copies of Records. Individuals seeking copies of DLA records should address their FOIA requests to the FOIA manager of the appropriate activity. Addresses and brief descriptions of functions are included in enclosure 8.

S. Requests from Private Parties. The provisions of the FOIA are reserved for persons with private interests as opposed to Federal Governments seeking official information. Requests from private persons will be made in writing, and will clearly show all other addressees within the Federal Government to whom the request was also sent. This procedure will reduce processing time requirements, and ensure better inter- and intra-agency coordination. DLA activities are under no obligation to establish procedures to receive hand delivered requests. Release of records to individuals under the FOIA is considered public release of information, except as provided for in paragraphs G and P1, above.

T. Requests from Government Officials. Requests from Members of Congress for records on behalf of a Congressional Committee, Subcommittee, or either House sitting as a whole will be processed according to DLAR 5400.12, Administration of Congressional Matters (see also paragraph G, above). Requests from officials of foreign governments which do not invoke the FOIA shall be referred to HQ DLA-I or the appropriate foreign disclosure channel for processing according to DLAM 5205.2, Foreign Liaison Program, and the requester so notified. Requests invoking the FOIA from the following government officials will be considered the same as any other requester and processed according to this regulation:

1. Officials of State or local governments.
2. Members of Congress seeking records for their constituents.
3. Officials of foreign governments.

U. Privileged Release to U.S. Government Officials

1. Records determined to be exempt from public disclosure under one or more of FOIA exemptions may be authenticated and released to U.S. Government officials requesting them on behalf of Federal governmental bodies, whether legislative, executive, administrative, or judicial, as follows:

a. To a Committee or Subcommittee of Congress, or to either House sitting as a whole in accordance with DoD Directive 5400.4, Provision of Information to Congress.

b. To the Federal courts, whenever ordered by officers of the court as necessary for the proper administration of justice. However, receipt of a subpoena *duces tecum* does not automatically compel disclosure of DLA records. To qualify for privileged release under this section, the subpoena must be signed by the judge of a court of competent juris-

diction. A subpoena which has been sent through FOIA channels and signed by a litigating attorney, a subpoena service agent, or an official of a state or local court will be treated as any other FOIA request and subject to the exemptions in enclosure 3. Consult with local counsel before acting on such subpoenas.

c. To other Federal Agencies, both executive and administrative, as determined by the DLA Director or designee.

2. Disclosure under these privileged release circumstances does not set a precedent for disclosure to the general public under the FOIA.

3. DLA activities shall inform officials receiving records under the provisions of this paragraph that those records are exempt from public release under the FOIA and are privileged. DLA activities will also advise officials of any special handling instructions. See enclosure 2, paragraph IIB5, for marking requirements for FOUO material.

IV. DEFINITIONS. As used in this regulation, the following terms and meanings shall be applicable.

A. (a)(1) Material. Material described in 5 U.S.C. 552(a)(1) consisting of descriptions of central and field organizations and, to the extent that they affect the public, rules of procedures, descriptions of forms available, instruction as to the scope and contents of papers, reports, or examinations, and any amendment, revision, or report of the aforementioned.

B. (a)(2) Material. Material described in 5 U.S.C. 552(a)(2) encompassing:

1. Final opinions, including concurring and dissenting opinions, and orders made in the adjudication of cases, as defined in 5 U.S.C. 551, that may be cited, used, or relied upon as precedents in future adjudications.

2. Statements of policy and interpretations that have been adopted by the agency and are not published in the Federal Register.

3. Administrative staff manuals and instructions, or portions thereof, that establish DLA policy or interpretations of policy that affect a member of the public. This provision does not apply to instructions for employees on tactics and techniques to be used in performing their duties or to instructions relating only to the internal management of the DLA activities. Examples of manuals and instructions not normally made available include, but are not limited to the following:

a. Those issued for audit, investigation, and inspection purposes or those that prescribe operational tactics, standards of performance, or criteria for defense, prosecution, or settlement of cases.

b. Operations and maintenance manuals and technical information concerning munitions, equipment, systems, and foreign intelligence operations.

C. Administrative Appeal. A request made under the FOIA by a member of the general public asking the appellate authority to reverse an initial denial authority's decision to withhold all or part of a requested record, to review a "no record found" determination, or to reverse a decision to deny a request for waiver or reduction of fees.

D. Agency Record

1. The products of data compilation, such as all books, papers, maps, and photographs, machine readable materials or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law in connection with the transaction of public business and in DLA's possession and control at the time the FOIA request is made.

2. The following are not included within the definition of the word "record":

a. Objects or articles, such as structures, furniture, vehicles and equipment, whatever their historical value or value as evidence.

b. Administrative tools by which records are created, stored, and retrieved, if not created or used as sources of information about organizations, policies, functions, decisions, or procedures of a DLA activity. Normally, computer software, including source code, object code, and listings of source and object codes, regardless of medium, are not agency records. (This does not include the underlying data which is processed and produced by such software and which may in some instances be stored with the software.) Exceptions to this position are outlined in subparagraph 3, below.

c. Anything that is not a tangible or documentary record, such as an individual's memory or oral communication.

d. Personal records of an individual not subject to agency creation or retention requirements, created and maintained primarily for the convenience of an agency employee, and not distributed to other agency employees for their official use.

e. Information stored within a computer for which there is no existing computer program for retrieval of the requested information.

3. In some instances, computer software may have to be treated as an agency record and processed under the FOIA. These situations are rare and shall be treated on a case-by-case basis. Examples of when computer software may have to be treated as an agency record are:

a. When the data is embedded within the software and cannot be extracted without the software. In this situation, both the data and the software must be reviewed for release or denial under the FOIA.

b. Where the software itself reveals information about organizations, policies, functions, decisions, or procedures of a DLA activity, such as computer models used to forecast budget outlays, calculate retirement system costs, or optimization models on travel costs.

c. See enclosure 3 for guidance on release determinations of computer software.

4. A record must exist and be in the possession and control of DLA at the time of the request to be considered subject to this regulation and the FOIA. There is no obligation to create, compile, or obtain a record to satisfy an FOIA request.

5. If unaltered publications and processed documents, such as regulations, manuals, maps, charts, and related geophysical materials are available to the public through an established distribution system with or without charge, the provisions of 5 U.S.C. 552(a)(3) normally do not apply, and requests for such need not be processed under the FOIA. Normally, documents disclosed to the public by publication in the Federal Register also require no processing under the FOIA. In such cases, DLA activities should direct the requester to the appropriate source to obtain the record.

E. Appellate Authority. The Director, DLA, or his designee, except for fee waivers and category determinations. The appellate authority for such appeals is the Staff Director, Office of Administration, HQ DLA.

F. DLA Activity. An element of DLA authorized to receive and act independently on FOIA requests. A DLA activity has its own FOIA manager, initial denial authority, and office of counsel.

G. Electronic Data. Electronic data are those records and information which are created, stored, and retrievable by electronic means. This does not include computer software, which is the tool by which to create, store, or retrieve electronic data. See subparagraphs D2b and D3 for a discussion of computer software.

H. FOIA Request. A written request for records, made by any person, including a member of the public (U.S. or foreign citizen), an organization, or a business, but not including a Federal agency or a fugitive from the law that either explicitly or implicitly invokes the FOIA, DoD Directive 5400.7, DoD Freedom of Information Act Program, this regulation, or DLA activity supplementing regulations or instructions.

I. Initial Denial Authority (IDA). An official who has been granted authority by the Director, DLA, to withhold records requested under the FOIA for one or more of the nine categories of records exempt from mandatory disclosure or to issue a "no record" determination. These include the Directors (or equivalent) of HQ DLA principal staff elements (PSEs) and the Commanders (or equivalent) of PLFAs. For fee waiver and requester category determinations, the initial denial authority is the FOIA manager or head of the FOIA unit.

J. Public Interest Disclosures. Those disclosures which shed light on DLA performance of its statutory duties and thus inform citizens about what their Government is doing. The "public interest", however, is not fostered by disclosure of information about private citizens that is accumulated in various Governmental files that reveals little or nothing about an agency's or official's own conduct. The public interest is one of several factors considered in determining if a fee waiver is appropriate (see enclosure 4).

K. Releasing Official. Any individual with sufficient knowledge of a requested record or program to allow him or her to determine if harm would come through release. Releasing officials are at all levels and may be selected to review a particular document because of their expertise in the subject area. The level must be high enough to make sure that releases are made according to the policies outlined here. The authority to release records of a routine nature, such as fact sheets or local directories, may be delegated to any individual at the discretion of the denial

authority. In doubtful cases, releasing officials may consult with the FOIA staff or servicing counsel prior to release.

V. SIGNIFICANT CHANGES. Because this regulation completely revises the policies and procedures for administering the Freedom of Information Act program within DLA, it should be read in its entirety.

VI. RESPONSIBILITIES

A. The Staff Director, Administration, HQ DLA (DLA-X) will:

1. Have overall responsibility for establishment and implementation of the DLA FOIA program, providing guidance and instructions to PLFAs and PSEs.
2. Designate a FOIA manager to administer the DLA FOIA program.
3. Serve as the point of contact for referring members of the public to the proper DLA source for Agency records.
4. Serve as appellate authority on fee waivers and category determinations.
5. Serve as initial denial authority for record denials where more than one PSE is involved or where a PSE has made a determination that the requested record cannot be found.
6. Submit required reports to the Office of the Assistant Secretary of Defense, Public Affairs.
7. Collect and deposits fees for FOIA services performed at HQ DLA and DASC.

B. The General Counsel, HQ DLA (DLA-G) will:

1. Provide legal advice and assistance to HQ DLA PSEs and, where appropriate, PLFAs in determining decisions to withhold records.
2. Process appeals to the Director, DLA, of denials to provide records or no record found determinations.
3. Coordinate denial actions with Office of the General Counsel, DoD, and the Department of Justice, as appropriate.
4. Ensure that case files of FOIA appeals are maintained for 6 years after final agency decision.

C. The Staff Director, Office of Public Affairs, HQ DLA (DLA-B) will serve as a coordinating office for the release of information to the news media where potential for controversy exists.

D. The Staff Director, Office of Congressional Affairs, HQ DLA (DLA-Y) will serve as a coordinating office on final responses to FOIA requests from members of the Congress.

E. The Heads of DLA Principal Staff Elements (PSEs) will:

1. Appoint an individual to serve as FOIA monitor. Letters of appointment will be forwarded to DLA-XAM.

2. Forward to DLA-XAM any FOIA request received directly from the public so that the request may be administratively controlled.

3. Ensure that provisions of this regulation are followed in processing requests for records from the public.

4. Coordinate requests with other HQ DLA staff elements to the extent considered necessary.

5. Coordinate any proposed denial with the General Counsel.

6. Serve as initial denial authority.

7. Ensure that FOIA case files of denials are maintained for 6 years and that full releases are maintained for 2 years.

8. Make initial determinations to release records or designate individuals to make such determinations.

F. The PSE FOIA Monitors will:

1. Process and control all FOIA requests received from DLA-XAM.

2. Make sure established suspenses are met.

3. Request extensions of time from DLA-XAM when necessary and within the limits of paragraph VIIJ, below.

4. Gather cost estimates when requested.

5. Ensure DLA Form 1786, Freedom of Information Act Cost Sheet, is properly completed.

6. Coordinate proposed full and partial denials with DLA-XAM prior to signature by the PSE Director. Forward a copy of each FOIA final response and DLA Form 1786 to DLA-XAM.

G. The Heads of DLA Primary Level Field Activities (PLFAs) will:

1. Designate a FOIA manager to administer the DLA FOIA program within the PLFA. Forward the name, address, and telephone number of the manager to DLA-XAM.

2. Ensure that the provisions of this regulation are followed in processing requests for records from members of the public.

3. Provide facilities where members of the public may examine and copy the following documents:

- a. DLAH 5805.1, DLA Organization Directory.

- b. DLAH 5025.1, DLA Index of Publications.

- c. DLAM 5015.1, Files Maintenance and Disposition.

- d. Copies of local directories or indexes.

- e. Any other available (a)(1) or (a)(2) material.

4. Sign letters of denial and no record found determinations after coordination with Counsel.

5. Refer cases of significance to DLA-XAM for review and evaluation when the issues raised are unusual, precedent setting, or otherwise require special guidance.

6. Establish safeguards to ensure that FOUO material is protected.

7. Establish procedures to ensure that a record is maintained of all FOIA requests for logistical data (data on magnetic tape extracted from any of the DLA automated Data Processing (ADP) systems). The record will contain the requester's name and address, the date of the request, what information was requested, and what information was furnished. This record will be kept for 5 years.

8. Inform Public Affairs offices in advance when they intend to withhold or partially withhold a record if it appears that the withholding action may be challenged in the media.

H. Freedom of Information Act Managers at all Levels will:

1. Establish procedures to receive, control, process, and screen FOIA requests. To provide for rapid retrieval of information, the designated FOIA manager will maintain a central log of all incoming FOIA requests.

2. Review requests to determine if they meet the requirements of 5 U.S.C. 552. Determine category of the requester before assigning the request for search. Provide instructions to the searching office on fees and time limits for response.

3. Consult with requesters, where necessary, to determine requester category and to resolve fee issues.

4. Establish training and education program for those personnel who may be involved in responding to FOIA requests.

5. Approve requests for formal extensions of time and notify requesters in writing of the extension.

6. Grant or deny requests for fee waivers or requester category determinations and provide DLA-XAM with a copy of each such denial.

7. Establish procedures to ensure that paragraph VIII regarding consultation with submitters of information is complied with.

8. Establish procedures for the collection and deposit of fees for FOIA services.

9. Ensure that DLA Form 1786 is completed and maintained for each case file.

10. Establish procedures to ensure that record denials and no record found determinations are signed by the PLFA initial denial authority and a copy forwarded to DLA-XAM.

11. Notify DLA-XAM of requesters who have failed to pay fees in a timely manner.

12. Prepare and submit reports as required.

13. Consult with public affairs officers (PAOs) to become familiar with subject matter that is considered to be newsworthy and advise PAOs of all requests from news media representatives.

14. Establish procedures to provide the Congressional Affairs focal point with an information copy of each FOIA request received from a member of the Congress.

15. Coordinate proposed supplements or training material with DLA-XAM prior to publication or dissemination.

16. Establish procedures to ensure that case files of FOIA releases are maintained for 2 years after cutoff and that denials are maintained for 6 years after cutoff.

17. Coordinate on all FOIA full or partial denials.

VII. PROCEDURES

A. FOIA Channels. If DLA personnel receive a FOIA request directly from the public that has not been logged in and processed through the FOIA office, they will immediately forward it to the local FOIA manager.

B. Central Log System. Each FOIA manager will maintain a central log of FOIA requests received within the activity to ensure compliance with the time limits, accurate cost accounting, fee assessment, and

reporting. DLA Form 1805, Freedom of Information Act Request Control Log, may be used for this purpose.

C. Time Limit. FOIA requests must be responded to within 10 business days after proper receipt, except in unusual circumstances outlined in subparagraph J, below. A request is considered properly received on the date the FOIA manager receives it provided the request has been reasonably described and the requester has either agreed to pay assessable fees or has provided sufficient justification for a fee waiver.

D. Screening Requests

1. Before assigning a request for search, the FOIA manager will screen the request for defects in the description, the requester category, and the issue of fees. FOIA managers will notify requesters of any such defects and, wherever possible, offer assistance to help remedy the defects. If the FOIA manager must consult with the requester on any of the following issues, then the request is not considered to be properly received and the 10-day time limit does not begin or resume until the requester has satisfactorily addressed the issue.

a. Payments in Arrears. If a requester has failed to pay fees for a previous request, then the FOIA manager need not process the current request until the requester pays the delinquent amount. In such situations, the FOIA manager will notify the requester of the defect and provide an opportunity to forward payment along with any assessable interest. At that time, the FOIA manager may, at his or her discretion, demand that the requester also pay an estimated fee for the current request.

b. Faulty Description. If the request is not reasonably described, the FOIA manager will notify the requester of the defect and advise that a search cannot be initiated without more specific information. In making such determinations, FOIA managers may consult with offices of primary interest to determine the details that are needed to conduct a search. See also paragraph III I and subparagraph F2, below.

c. Requester Category and Fees. The FOIA manager will analyze the request to determine the category of the requester. If the category of the requester is different than that claimed by the requester, the FOIA manager will:

(1) Notify the requester that he or she should provide additional justification to warrant the category claimed and that a search for responsive records will not be initiated until agreement has been attained relative to the category of the requester. Absent further category justification from the requester and within a reasonable period of time (i.e., 30 calendar days), the FOIA manager shall render a final category determination, and notify the requester of such determination, to include normal administrative appeal rights.

(2) Advise the requester that, notwithstanding any appeal, a search for responsive records will not be initiated until the requester indicates a willingness to pay assessable costs appropriate for the category determined by the FOIA manager. Requesters must submit a fee declaration appropriate for the following categories:

(a) Commercial. Requesters must indicate a willingness to pay all search, review and duplication costs.

(b) Educational or Noncommercial Scientific Institution or News Media. Requesters must indicate a willingness to pay duplication charges in excess of 100 pages if more than 100 pages of records are desired.

(c) All Others. Requesters must indicate a willingness to pay assessable search and duplication costs if more than 2 hours of search effort or 100 pages of records are desired.

d. Justification for Fee Waivers. If the requester has asked for a fee waiver but failed to provide a justification, FOIA managers will ask requesters to address the fee waiver criteria in enclosure 4 before further processing the request. FOIA managers are reminded that with some types of records, a final decision cannot be made on waiver until after the records have been surfaced, reviewed, and the public benefit and previous public availability assessed.

2. In cases where there is disagreement on the category of the requester or there is lack of justification for fee waiver, the FOIA manager may process the request without further contacting the requester if he or she believes it can be processed within the automatic \$15 waiver limit.

E. Providing Estimates. In the situations described by subparagraphs D1c and d, above, DLA activities must be prepared to provide an estimate of assessable

fees if desired by the requester. While it is recognized that search situations will vary among DLA activities and that an estimate is often difficult to obtain prior to an actual search, requesters who desire estimates are entitled to such before committing to a willingness to pay. Should actual costs exceed the actual amount of the estimate or the amount agreed to by the requester, the amount in excess of the estimate or the requester's agreed amount shall not be charged without the requester's agreement.

F. Internal Processing

1. Upon making a determination that the request is reasonably described, that the fee issue has been settled, and that the requester does not owe for a prior request, the FOIA manager will assign the request to the appropriate office of primary interest (OPI) for handling and provide instructions on the category of the requester, the fees to be charged or waived, and what actions the OPI is to take. DLA Form 1471, Freedom of Information Act Request, may be used for this purpose. OPIs will keep track of time expended on DLA Form 1786.

2. After reviewing a request, the OPI may determine, based on knowledge of the files and programs, that a request is, in fact, not reasonably described. OPIs will notify FOIA managers of such defects immediately so that further details may be sought from the requester. Any delays on the requester's part in receiving more detailed information will not count toward the 10-day time limit.

G. Initial Determinations

1. Reasons for Not Releasing a Record. There are seven reasons for not complying with a request for a record:

a. The request is transferred to another DLA activity, DoD component, or to another Federal agency.

b. The DLA activity determines through knowledge of its files and reasonable search efforts that it neither controls nor otherwise possesses the requested record. Responding officials will advise requesters of the right to appeal such determinations. See paragraph I5, below, for details on processing "no record" responses.

c. A record has not been described with sufficient particularity to enable the DLA activity to locate it by conducting a reasonable search. See paragraph III I.

d. The requester has failed unreasonably to comply with procedural requirements, including payment of fees, imposed by this regulation or a PLFA supplementing regulation.

e. The request is withdrawn by the requester.

f. The information requested is not a record within the meaning of the FOIA and this regulation. See paragraph IVD.

g. The record is denied in accordance with procedures set forth in the FOIA and this regulation.

2. Reasonably Segregable Portions. Although portions of some records may be denied, the remaining reasonably segregable portions must be released to the requester when it reasonably can be assumed that a skillful and knowledgeable person could not reconstruct the excised information. When a record is denied in whole, the response advising the requester of that determination will specifically state that it is not reasonable to segregate portions of the record for release.

H. Preparing Documents for Public Release. Releasing officials are to follow procedures in paragraph VI of encl 2 prior to releasing documents to the public. These procedures will also apply to classified documents with the exception that the classified portions will be cut out rather than blackened, taped, or whited out.

I. Response to Requester

1. Time Limits. Initial determinations to release or deny a record normally shall be made and the decision reported to the requester within 10 working days after receipt of the request by the FOIA manager. When a decision is made to release a record, a copy should be made available promptly to the requester.

2. Acknowledging Date of Receipt. When the time for response becomes an issue, the official responsible for replying shall acknowledge to the requester the date of the receipt of the request.

3. Billing. When fees are being levied, the response to the requester will contain a billing paragraph. Responding officials will advise requesters to make checks or money orders payable to U. S. Treasury and forward them to the FOIA manager of the PLFA that incurred the expense. See ATT 2 to enclosure 3 for wording for the billing paragraph. FOIA managers will notify DLA-XAM of names and ad-

resses of requesters who have failed to pay after a second billing has been mailed and 30 days have elapsed without payment.

4. Full and Partial Denials

a. When a request for a record is denied in whole or in part on the basis of one or more of the exemptions in enclosure 3, the initial denial authority shall inform the requester in writing and shall explain to the requester the basis for the determination in sufficient detail to permit the requester to make a decision concerning appeal. The requester specifically shall be informed of the exemption(s) on which the denial is based. The FOIA exemptions are cross-indexed to this regulation at ATT 1 to enclosure 3. When the initial denial is based in whole or in part on a security classification, the explanation should include a summary of the applicable Executive Order criteria for classification, as well as an explanation, to the extent reasonably feasible, of how those criteria apply to the particular record in question. The requester shall also be advised of the opportunity and procedures for appealing an unfavorable determination to the Director, DLA. The sample letter of denial at ATT 2 to encl 3 may be used.

b. FOIA managers shall forward a copy of each letter of denial to DLA-XAM, Cameron Station, Alexandria, Virginia 22304-6100. Do not include attachments, the incoming request, or any backup material.

5. Providing "No Record" Responses

a. If no documents can be located in response to a FOIA request, the initial denial authority will so advise the requester. Requesters will also be advised that, if they consider the response to be adverse, they may file an appeal within 60 calendar days from the date of the response. Requesters are to be advised to address appeals to the local FOIA manager and include the case number and reasons why they believe the DLA activity should have records on the subject matter.

b. Before a formal "no record" response is issued, OPI will verify that the requester has adequately described the record. If additional details will aid the search, then the requester will be asked to provide those details. See paragraph III I and subparagraph D1b, above, for procedures for resolving inadequate descriptions.

c. In cases where the requested record has been destroyed, the initial denial authority will confirm that the record was retained for the period authorized in DLAM 5015.1 before issuing a formal response. In responding to requesters in these cases, advise the requester that the records were properly destroyed according to Agency rules for record disposition and give the right to appeal as outlined in subparagraph 5a, above. However, do not ask the requester to provide reasons why the activity should have the records.

d. Upon receipt of an appeal, the FOIA manager will direct that a second search be conducted using any information supplied by the requester. If the second search produces no documents, the appeal will be forwarded to HQ DLA-G, Cameron Station, Alexandria, Virginia 22304-6100, along with a copy of the case file. The FOIA manager will include a copy of DLA Form 1786 and an explanation of the method of search and the types of offices searched. In cases where the "no record" response was issued because the records have been destroyed, the FOIA manager will verify that the records were destroyed as provided for in DLAM 5015.1 and provide a statement to that effect.

e. FOIA managers will ensure that a copy of each "no record" response letter is forwarded to DLA-XAM, Cameron Station, Alexandria, Virginia 22304-6100. Do not include attachments, the incoming request, or any backup material.

6. Coordination. OPIs will ensure that the proposed response is fully coordinated with offices having an interest in the request. Proposed responses to FOIA requests from members of the Congress will be coordinated with DLA-Y or the local Congressional Affairs focal point.

J. Extensions of Time

1. Formal Extensions. In unusual circumstances, when additional time is needed to respond, the FOIA manager will acknowledge the request in writing within the 10-day period, describe the circumstances requiring the delay, and indicate the anticipated date for substantive response that may not exceed 10 additional working days. The unusual circumstances that may be cited to justify delay are:

a. Location. The requested record is located in whole or in part at places other than the office processing the request.

b. Volume. The request requires the collection and evaluation of a substantial number of records.

c. Consultation. Consultation is required with other DoD components or agencies having substantial interest in the subject matter to determine whether the records requested are exempt from disclosure in whole or in part under provisions of this regulation or should be released as a matter of discretion.

2. Informal Extensions. Where practical and expedient, the FOIA manager or official designated to respond may negotiate with the requester and arrange for an informal extension. Such extensions may be appropriate in instances where the records have to be ordered from a record repository; where the record has been sent out for commercial printing and is not expected back before the 10-day time has elapsed; and similar circumstances. In these unusual cases where the statutory time limits cannot be met and no informal extension of time has been agreed to, the inability to process any part of the request within the specified time should be explained to the requester with a request that he agree to await a substantive response by an anticipated date. It should be made clear that any such agreement does not prejudice the right of the requester to appeal the initial decision after it is made. Since the requester still retains the right to treat this delay as a defacto denial with full administrative remedies, such formal extensions should be issued only when essential.

K. Misdirected Requests. Misdirected requests shall be forwarded promptly to the FOIA manager of the DLA activity, DoD component, or Federal agency with the responsibility for the records requested. The period allowed for responding to the request misdirected by the requester shall not begin until the request is received by the FOIA manager of the PLFA that controls the records requested.

L. Records of Contractors and Other Non-U.S. Government Sources

1. Executive Order 12600 of 23 June 1987 (ATT 3 to enclosure 3) establishes predisclosure notification procedures for confidential commercial information. When a request is received for a record that was obtained from a contractor or other non-U.S. Government source or for a record containing information clearly identified as having been provided by a contractor or other non-U.S. Government source, the source of the record or information [also known as "the submitter" for matters pertaining to proprietary data under 5 U.S.C. 552(b)(4)] (see enclosure 3, exemption 4) shall be notified promptly of that request

and afforded reasonable time (e.g., 30 calendar days) to present any objections concerning the release, unless it is clear that there can be no valid basis for objection. The following procedures will be followed:

a. The person designated to respond will provide the source with a copy of the incoming request, a copy of the documents responsive to the request, and letter of instruction. The fact sheet at ATT 4 of enclosure 3 may be reproduced and enclosed with the letter of instruction. The notification letter will be addressed to the president of the entity or the entity's counsel and sent by return receipt mail.

b. When a substantial issue has been raised, the DLA activity may seek additional information from the source and afford the source and requester reasonable opportunities to present their arguments on the legal and substantive issues involved.

c. Any objections to release will be evaluated and the source provided with a copy of the activity's final decision. Where a decision is made to release information claimed to be exempt, the source will be notified that the information will be released on a specified date unless the source seeks a restraining order or takes court action to prevent disclosure. Evaluators are cautioned that any decision to disclose information claimed to be exempt under exemption (b)(4) must be made by an official equivalent in rank to the initial denial authority.

d. When the source advises it will seek a restraining order or take court action to prevent release of the record or information, the FOIA manager will notify the requester and suspend action on the request until after the outcome of that court action is known. When the requester brings court action to compel disclosure, the FOIA manager shall promptly notify the submitter of this action.

2. These procedures are required for those FOIA requests for data not deemed clearly exempt from disclosure under exemption (b)(4). If, for example, the record or information was provided with actual or presumptive knowledge of the non-U.S. Government source and established that it would be made available to the public upon request, there is no obligation to notify the source.

3. These coordination provisions also apply to any non-U.S. Government record in the possession

and control of DLA from multi-national organizations, such as North Atlantic Treaty Organization (NATO) and North American Aerospace Defense Command (NORAD), or foreign governments. Coordination with foreign governments under the provisions of this paragraph shall be made through Department of State.

M. File of Initial Denials. Copies of all initial denials shall be maintained by each DLA activity in a form suitable for rapid retrieval, periodic statistical compilation, and management evaluation.

N. Special Mail Services. DLA activities are authorized to use registered mail, certified mail, certificates of mailing and return receipts. However, their use should be limited to instances where it appears advisable to establish proof of dispatch or receipt of FOIA correspondence.

O. Receipt Accounts. The Treasurer of the United States has established Receipt Account 3210 for use in depositing search, review, and duplication fees collected under the FOIA. Upon receipt of payment, the FOIA manager will complete DD Form 1131, Cash Collection Voucher, and forward it along with the check or money order to DFAS/CO/PDG, P. O. Box 182317, Columbus, Ohio 43218-2317. FOIA managers will cite accounting classification 21R3210.0004 on DD Form 1131. This account will not, however, be used for depositing receipts for technical information released under the FOIA, industrially-funded activities, and non-appropriated funded activities. Instead, payments for these shall be deposited to the appropriate fund.

VIII. FORMS AND REPORTS

A. Reports. The reporting requirement outlined in this regulation is assigned Report Control Symbol DD-PA(A)1365. Existing DoD standards and registered data elements are to be used for all data requirements to the greatest extent possible in accordance with the provisions of DoD Directive 5000.11, Data Elements and Data Codes Standardization Program. The standard data elements are contained in DoD 5000.12-M, DoD Manual for Standard Data Elements. Instructions for preparing the annual report are contained in enclosure 9.

B. Forms. The following forms are authorized for use:

1. DLA Form 22, For Official Use Only Cover Sheet
2. DLA Form 1471, Freedom of Information Act Request
3. DLA Form 1776, Freedom of Information Act Annual Report Worksheet

4. DLA Form 1786, Freedom of Information Act Cost Sheet

5. DLA Label 1804, For Official Use Only Sticker

6. DLA Form 1805, Freedom of Information Act Request Control Log


7. DD Form 2564, Annual Reports, Freedom of Information Act

8. DD Form 1131, Cash Collection Voucher

BY ORDER OF THE DIRECTOR

10 Encls

1. References
2. For Official Use Only
3. FOIA Exemptions
4. Fee Schedule
5. Appeals
6. Judicial Actions
7. Education and Training
8. Gaining Access to DLA Records
9. Annual Report Instructions
10. Index


GARY C. TUCKER
 Colonel, USA
 Staff Director, Administration

DISTRIBUTION

2

COORDINATION: OASD(PA), DLA-G, DLA-I,
 DLA-Y, DLA-CI, DLA-CF, DLA-ZR, DLA-ZIR,
 DLA-ZIC, DLA-SC, DLA-LP, DLA-LR,
 DLA-KS, DLA-B

REFERENCES

1. DLAR 4185.9, Distribution Statements on Technical Documents.
2. DLAM 5015.1, Files Maintenance and Disposition.
3. DLAH 5025.1, DLA Index of Publications.
4. DLAR 5105.5, Attesting to the Authenticity of Defense Logistics Agency Records.
5. DLAR 5200.12, DLA Information Security Program.
6. DLAM 5205.2, Foreign Liaison Program.
7. DLAH 5400.1, DLA Systems of Records Handbook.
8. DLAR 5400.12, Administration of Congressional Matters.
9. DLAR 5400.21, Personal Privacy and Rights of Individuals Regarding Their Personal Records.
10. DLAH 5805.1, DLA Organization Directory.
11. DLAR 7230.1, User Charges.
12. DLAR 7600.9, DLA Relationships with External Audit Agencies and the Surveys and Investigations Staff, House Appropriations Committee.
13. DoD Directive 5000.11, Data Elements and Data Codes Standardization Program (C3I)
14. DoD 5000.12-M, DoD Manual for Standard Data Elements (DA&M).
15. DoD 5025.1-I, DoD Directives System Annual Index.
16. DoD Directive 5230.25, Withholding of Unclassified Technical Data from Public Disclosure (USDA).
17. DoD Directive 5400.4, Provision of Information to Congress.
18. DoD Federal Acquisition Regulation Supplement (DFARS), Subpart 27.4.
19. Title 5, United States Code, Section 551, "Administrative Procedure Act."
20. Title 5, United States Code, Section 552, as amended, Freedom of Information Act.
21. Title 5, United States Code, Section 552a, as amended, "The Privacy Act of 1974."
22. Title 10, United States Code, Section 130, "Authority to Withhold from Public Disclosure Certain Technical Data."
23. Title 10, United States Code, Sections 2320-2321, "Rights in Technical Data."
24. Title 31, United States Code, Section 1 et seq., "Budget and Accounting Act of 1921."
25. Title 31, United States Code, Section 67 et seq., as amended, "Defense Authorization Act for FY 87"
26. Title 31, United States Code, Section 3717, "Interest and Penalty on Claims."
27. Title 41, United States Code, Section 423, "Procurement Integrity."
28. Title 44, United States Code, Chapter 33, "Disposal of Records."
29. Title 44, United States Code, Section 35, "Paperwork Reduction Act."
30. Public Law 86-36, "National Security Information Exemption."
31. Public Law 97-365, Debt Collection Act of 1982.
32. Public Law 100-26, "Defense Technical Corrections Act of 1987."
33. Title 32, Code of Federal Regulations, Part 286h, "Release of Acquisition-Related Information."
34. Executive Order 12600 of June 23, 1987, "Pre-disclosure Notification Procedures for Confidential Commercial Information," 3 CFR 235 (1988), 52 FR 23781 (June 25, 1987).
35. ACP-121 (United States Supplement 1).

FOR OFFICIAL USE ONLY (FOUO)

I. GENERAL PROVISIONS

A. **FOUO Limitations.** Information that has not been given a security classification pursuant to the criteria of an Executive Order, but which may be withheld from the public for one or more of the reasons cited in FOIA exemptions 2 through 9 (see enclosure 3) shall be considered as being for official use only. No other material shall be considered or marked "For Official Use Only" (FOUO). FOUO markings are not to be used as an anemic form of classification to protect national security interests.

B. **Prior FOUO Application.** The prior application of FOUO markings is not a conclusive basis for withholding a record that is requested under the FOIA. When such a record is requested, the information in it shall be evaluated to determine whether, under current circumstances, FOIA exemptions apply in withholding the record or portions of it. If any exemptions apply, the record may nonetheless be released when it is determined that no governmental interest will be jeopardized by its release.

C. **Historical Papers.** Records such as notes, working papers, and drafts retained as historical evidence of DLA actions enjoy no special status apart from the exemptions under the FOIA.

D. **Distribution Statement.** Information in a technical document that requires a distribution statement pursuant to DLAR 4185.9 shall bear that statement and may be marked FOUO, as appropriate.

II. MARKING RECORDS

A. **Time to Mark Records.** The marking of records at the time of their creation provides notice of FOUO content and facilitates review when a record is requested under the FOIA. Records requested under the FOIA that do not bear such markings shall not be assumed to be releasable without examination for the presence of information that requires continued protection and qualifies as exempt from public release.

B. **Location of Markings**

1. An unclassified document containing FOUO information shall be marked "For Official Use Only" at the bottom on the outside of the front cover (if any), on each page containing FOUO information, and on the outside of the back cover (if any). Where appropriate, the marking may contain a more specific warning (such as "Negotiation Sensitive") to alert handlers to the special nature of the FOUO material.

2. Within a classified document, an individual page that contains both FOUO and classified information shall be marked at the top and bottom with the highest security classification of information appearing on the page.

3. Within a classified document, an individual page that contains FOUO information but no classified information shall be marked "For Official Use Only" at the bottom of the page.

4. Other records, such as, photographs, films, cassettes, slides, disks, and diskettes shall be marked "For Official Use Only" or "FOUO" in a manner that ensures that a recipient or viewer is aware of the status of the information therein. Both the information and the product that houses it will be marked. DLA Label 1804, For Official Use Only Sticker, may be used to label diskettes, jackets, film canisters, and similar housing devices.

5. FOUO material transmitted outside the Department of Defense requires application of an expanded marking to explain the significance of the FOUO marking. This may be accomplished by typing or stamping the following statement on the record prior to transfer:

This document contains information EXEMPT FROM MANDATORY DISCLOSURE under the FOIA. Exemptions apply.

III. DISSEMINATION AND TRANSMISSION FOR OFFICIAL BUSINESS

A. **Release and Transmission Procedures.** Until FOUO status is terminated, the release and transmission instructions that follow apply:

1. FOUO information may be disseminated within DoD Components and between officials of DoD Components and DoD contractors, consultants, and grantees to conduct official business for the Department of Defense. Recipients shall be made aware of the status of such information, and transmission shall be by means that preclude unauthorized public disclosure. Transmittal documents shall call attention to the presence of FOUO attachments.

2. DLA holders of FOUO information are authorized to convey such information to officials in other departments and agencies of the executive and judicial branches to fulfill a Government function, except to the extent prohibited by the Privacy Act. Records thus transmitted shall be marked "For Official Use Only", and the recipient shall be advised that the information has been exempted from public disclosure, pursuant to the FOIA, and that special handling instructions do or do not apply.

3. Release of FOUO information to Members of Congress is governed by DLAR 5400.12. Release to the GAO is governed by DLAR 7600.9. Records released to the Congress or GAO should be reviewed to determine whether the information warrants FOUO status. If not, prior FOUO markings shall be removed or effaced. If withholding criteria are met, the records shall be marked FOUO and the recipient provided an explanation for such exemption and marking. Alternatively, the recipient may be requested, without marking the record, to protect against its public disclosure for reasons that are explained.

B. Transporting FOUO Information. Records containing FOUO information shall be transported in a manner that precludes disclosure of the contents. When not commingled with classified information, FOUO information may be sent via first-class mail or fourth-class parcel post. Bulky shipments, such as distributions of FOUO publications that otherwise qualify under postal regulations may be sent by fourth-class mail.

C. Electrically Transmitted Messages. Each part of electrically transmitted messages containing FOUO information shall be marked appropriately. Unclassified messages containing FOUO information shall contain the abbreviation "FOUO" before the

beginning of the text. Such messages shall be transmitted in accordance with communications security procedures in ACP-121 (US Supp 1) for FOUO information.

IV. SAFEGUARDING FOUO INFORMATION.

DLA Form 22, For Official Use Only Cover Sheet, may be used as a cover sheet when FOUO is in use or transit. However, it shall be removed before the FOUO document is filed. DLA Label 1804, For Official Use Only Sticker, is authorized for use as outlined in paragraph IIB4 above. In addition, the following procedures will be employed to safeguard FOUO records:

A. During Duty Hours. During normal working hours, records determined to be FOUO shall be placed in an out-of-sight location if the work area is accessible to nongovernmental personnel.

B. During Nonduty Hours. At the close of business, FOUO records shall be stored so as to preclude unauthorized access. Filing such material with other unclassified records in unlocked files or desks, is adequate when normal U.S. Government or government-contractor internal building security is provided during nonduty hours. When such internal security control is not exercised, locked buildings or rooms normally provide adequate after-hours protection. If such protection is not considered adequate, FOUO material shall be stored in locked receptacles such as file cabinets, desks, or bookcases. FOUO records that are subject to the provisions of Public Law 86-36 shall meet the safeguards outlined for that group of records.

V. TERMINATION, DISPOSAL, AND UNAUTHORIZED DISCLOSURES

A. Termination. The originator or other competent authority, e.g., initial denial and appellate authorities, shall terminate "For Official Use Only" markings or status when circumstances indicate that the information no longer requires protection from public disclosure. When FOUO status is terminated, all known holders shall be notified to the extent practical. Upon notification, holders shall efface or remove the "For Official Use Only" markings, but records in file or storage need not be retrieved solely for that purpose.

B. Disposal

1. Nonrecord copies of FOUO materials may be destroyed by tearing each copy into pieces to preclude reconstructing, and placing them in regular trash containers. When local circumstances or experience indicates that this destruction method is not sufficiently protective of FOUO information, local authorities may direct other methods but must give due consideration to the additional expense balanced against the degree of sensitivity of the type of FOUO information contained in the records.

2. Record copies of FOUO documents shall be disposed of in accordance with the disposal standards established under 44 U.S.C. Chapter 33 and DLAM 5015.1.

C. Unauthorized Disclosure. The unauthorized disclosure of FOUO records does not constitute an unauthorized disclosure of DoD information classified for security purposes. Appropriate administrative action shall be taken, however, to fix responsibility for unauthorized disclosure whenever feasible, and appropriate disciplinary action shall be taken against those responsible. Unauthorized disclosure of FOUO information that is protected by the Privacy Act may also result in civil and criminal sanctions against responsible persons. The disclosing activity shall inform the DoD component or DLA activity that originated the FOUO information of the unauthorized disclosure.

VI. PREPARING FOUO DOCUMENTS FOR PUBLIC RELEASE

A. Full Releases. When a determination has been made that a FOUO document may be fully released to a requester under any public information program, the FOUO markings will be removed from the requester's copy prior to release. In cases where a person seeks access to his or her own record and the record is marked FOUO to protect that person's personal or proprietary interests, the FOUO marks will be deleted from the requester's copy prior to release, even though the FOUO status has not been terminated. In such cases, the official file copy will retain the FOUO warning. See Note below.

B. Partial Releases. When a determination has been made that a document marked as FOUO may be partly released to a requester after removing some or all of the FOUO portions, then the exempt portions will be taped out, blackened out, whited out, or cut out and a copy reproduced for the requester from the marked up copy. Initial denial authorities will ensure that the deleted portion cannot be read and that the FOUO marks have been lined through prior to release.

NOTE: The removal of the FOUO marks does not constitute a denial for FOIA purposes.

FOIA EXEMPTIONS

The following types of records may be withheld in whole or in part from public disclosure under the FOIA, unless otherwise prescribed by law. A discretionary release to one requester may preclude the withholding of the same record under a FOIA exemption if the record is subsequently requested by someone else (see also paragraph IIIG of this regulation). In applying exemptions, the identity of the requester and the purpose for which the record is sought are irrelevant with the exception that an exemption may not be invoked where the particular interest to be protected is the requester's interest. A sample denial letter is at ATT 2 of this enclosure.

I. Exemption 1, 5 U.S.C. 552(b)(1). Those properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under the criteria established by executive order and implemented by DLAR 5200.12. Although material is not classified at the time of the FOIA request, a classification review may be undertaken to determine whether the information should be classified. The procedures in DLAR 5200.12 Section 2-204f, apply. In addition, this exemption shall be invoked when the following situations are apparent:

A. The fact of the existence or nonexistence of a record would itself reveal classified information. In this situation, DLA activities shall neither confirm nor deny the existence or nonexistence of the record being requested. A "refusal to confirm or deny" response must be used consistently, not only when a record exists, but also when a record does not exist. Otherwise, the pattern of using a "no record" response when a record does not exist, and a "refusal to confirm or deny" when a record does exist will itself disclose national security information.

B. Information that concerns one or more of the classification categories established by executive order and DLAR 5200.12 shall be classified if its unauthorized disclosure, either by itself or in the context of other information, reasonably could be expected to cause damage to the national security.

II. Exemption 2, 5 U.S.C. 552(b)(2). Those related solely to the internal personnel rules and practices of DLA or any of its activities. This exemption has two profiles which are sometimes referred to as "high 2" and "low 2."

A. "High 2": Records qualifying under "high 2" are those containing or constituting statutes, rules, regulations, orders, manuals, directives, and instructions the release of which would allow circumvention of these records thereby substantially hindering the effective performance of a significant function of DLA. Examples include but are not necessarily limited to the following:

1. Those operating rules, guidelines, and manuals for DLA investigators, inspectors, auditors, or examiners that must remain privileged in order for the DLA activity to fulfill a legal requirement.

2. Personnel and other administrative matters, such as examination questions and answers used in training courses or in the determination of the qualifications of candidates for employment, entrance on duty, advancement, or promotion.

3. Computer software meeting the standards of paragraph IVD3 of this regulation, the release of which would allow circumvention of a statute or DoD rules, regulations, orders, manuals, directives, or instructions. In this situation, the use of the software must be closely examined to ensure a circumvention possibility exists.

B. "Low 2": Records qualifying under the "low 2" profile are those that are trivial and housekeeping in nature for which there is no legitimate public interest or benefit to be gained by release, and it would constitute an administrative burden to process the request in order to disclose the records. Examples include but are not necessarily limited to the following: rules of personnel use of parking facilities or regulation of lunch hours, statements of policy as to sick leave, and trivial administrative data such as file numbers, mail routing stamps, initials, data processing notations, brief references to previous communications, and similar administrative markings.

III. Exemption 3, 5 U.S.C. 552(b)(3)

A. Those concerning matters that a statute specifically exempts from disclosure by terms that permit no discretion on the issue, or in accordance with criteria established by that statute for withholding or referring to particular types of matters to be withheld. Examples of statutes are:

1. National Security Agency Information Exemption, Public Law 86-36, Section 6.
2. Patent Secrecy, 35 U.S.C. 181-188. Any records containing information relating to inventions that are the subject of patent applications on which Patent Secrecy Orders have been issued.
3. Restricted Data and Formerly Restricted Data, 42 U.S.C. 2162.
4. Communication Intelligence, 18 U.S.C. 798.
5. Authority to Withhold From Public Disclosure Certain Technical Data, 10 U.S.C. 130 and DoD Directive 5230.25.
6. Confidentiality of Medical Quality Records: Qualified Immunity Participants, 10 U.S.C. 1102.
7. Physical Protection of Special Nuclear Material: Limitation on Dissemination of Unclassified Information, 10 U.S.C. 128.
8. Protection of Intelligence Sources and Methods, 50 U.S.C. 403(d)(3).
9. Procurement Integrity, 41 U.S.C. 423.

B. Cite the specific sections when invoking the Atomic Energy Act of 1954 or the National Security Act of 1947.

C. To qualify under exemption (b)(3), the statute must contain clear wording that the information covered will not be disclosed. The following examples are not (b)(3) statutes:

- 5 U.S.C. 552a - Privacy Act
- 17 U.S.C. 101 et seq. - Copyright Act
- 18 U.S.C. 793 - Gathering, Transmitting or Losing Defense Information
- 18 U.S.C. 794 - Gathering or Delivering Defense Information to Aid Foreign Governments
- 18 U.S.C. 1905 - Trade Secrets Act
- 28 U.S.C. 1498 - Patent and Copyright Cases

IV. Exemption 4, 5 U.S.C. 552(b)(4). Those containing trade secrets or commercial or financial information that DLA receives from a person or organization outside the Government with the understanding that the information or record will be retained on a privileged or confidential basis in accordance with the customary handling of such records. Records within the exemption must contain trade secrets, or commercial or financial records, the disclosure of which is likely to cause substantial harm to the competitive position of the source providing the information; impair the Government's ability to obtain necessary information in the future; or impair some other legitimate government interest. Examples include :

A. Commercial or financial information received in confidence in connection with loans, bids, contracts, or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions, discoveries, or other proprietary data. See also Title 32 Code of Federal Regulations 286h, Release of Acquisition-Related Information.

B. Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, if offered and received in confidence from a contractor or potential contractor.

C. Personal statements given in the course of inspections, investigations, or audits, when such statements are received in confidence from the individual and retained in confidence because they reveal trade secrets or commercial or financial information normally considered confidential or privileged.

D. Financial data provided in confidence by private employers in connection with locality wage surveys that are used to fix and adjust pay schedules applicable to the prevailing wage rate of employees within DoD.

E. Scientific and manufacturing processes or developments concerning technical or scientific data or other information submitted with an application for a research grant, or with a report while research is in progress.

F. Technical or scientific data developed by a contractor or subcontractor exclusively at private expense, and technical or scientific data developed in part with Federal funds and in part at private expense, wherein the contractor or subcontractor has retained legitimate proprietary interests in such data in accordance with 10 U.S.C. 2320-2321 and DoD Federal Acquisition Regulation Supplement (DFARS), 48 CFR Subpart 27.4. Technical data developed exclusively with Federal funds may be withheld under Exemption Number 3 if it meets the criteria of 10 U.S.C. 130 and DoD Directive 5230.25 (see paragraph IIIA5 of this enclosure).

G. Computer software meeting the conditions of paragraph IVD3, this regulation, which is copyrighted under the Copyright Act of 1976 (17 U.S.C. 106), the disclosure of which would have an adverse impact on the potential market value of a copyrighted work.

Note. See Executive Order 12600 (ATT 3 to this enclosure) and paragraph VIII L of this regulation for details on predisclosure notification procedures.

V. Exemption 5, 5 U.S.C. 552(b)(5). Except as provided in paragraphs B through E, below, internal advice, recommendations, and subjective evaluations, as contrasted with factual matters, that are reflected in records pertaining to the decisionmaking process of an agency, whether within or among agencies (as defined in 5 U.S.C. 552(e)), or within or among DoD components. Also exempted are records pertaining to the attorney-client privilege and the attorney work-product privilege.

A. Examples include:

1. The nonfactual portions of staff papers and reports containing staff evaluations, advice, opinions, or suggestions.
2. Advice, suggestions, or evaluations prepared on behalf of DLA by individual consultants or by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed for the purpose of obtaining advice and recommendations.
3. Those nonfactual portions of evaluations by DLA personnel of contractors and their products.
4. Information of a speculative, tentative, or evaluative nature or such matters as proposed plans to procure, lease or otherwise acquire and dispose of

materials, real estate, facilities or functions, when such information would provide undue or unfair competitive advantage to private personal interests or would impede legitimate government functions.

5. Trade secret or other confidential research, development, or commercial information owned by the Government, where premature release is likely to affect the Government's negotiating position or other commercial interest.

6. Records that are exchanged among DLA personnel and within and among DoD components or agencies as part of the preparation for anticipated administrative proceeding by an agency or litigation before any Federal, state, or military court, as well as records that qualify for the attorney-client privilege.

7. Those portions of official reports of inspection, reports of the Inspector Generals, audits, investigations, or surveys pertaining to safety, security, or the internal management, administration, or operation of DLA or one or more DoD components, when these records have traditionally been treated by the courts as privileged against disclosure in litigation.

8. Computer software meeting the standards of subparagraph IVD3, which is deliberative in nature, the disclosure of which would inhibit or chill the decisionmaking process. In this situation, the use of software must be closely examined to ensure its deliberative nature.

9. Planning, programming, and budgetary information which is involved in the defense planning and resource allocation process.

B. If any such intra- or inter-agency record or reasonably segregable portion of such record hypothetically would be made available routinely through the discovery process in the course of litigation with the agency (i.e., the process by which litigants obtain information from each other that is relevant to the issues in a trial or hearing) then it should not be withheld from the general public even though discovery has not been sought in actual litigation. If, however, the information hypothetically would only be made available through the discovery process by special order of the court based on agency maintaining its confidentiality, then the record or document need not be made available under this regulation. Consult with servicing Counsel to determine whether exemption 5 material would be routinely made available through the discovery process.

C. Intra- or inter-agency memoranda or letters that are factual or those reasonably segregable portions that are factual are routinely made available through discovery, and shall be made available to a requester, unless the factual material is otherwise exempt from release, inextricably intertwined with the exempt information, so fragmented as to be uninformative, or so redundant of information already available to the requester as to provide no new substantive information.

D. A direction or order from a superior to a subordinate, though contained in an internal communication, generally cannot be withheld from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters or a request for information or advice that would compromise the decisionmaking process.

E. An internal communication concerning a decision that subsequently has been made a matter of public record must be made available to a requester when the rationale for the decision is expressly adopted or incorporated by reference in the record containing the decision.

VI. Exemption 6, 5 U.S.C. 552(b)(6). Information in personnel and medical files, as well as similar personal information in other files, that, if disclosed to the requester would result in a clearly unwarranted invasion of personal privacy. Release of information about an individual contained in a Privacy Act system of records that would constitute a clearly unwarranted invasion of privacy is prohibited and could subject the releaser to civil and criminal penalties.

A. Examples of "Other Files"

1. Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment or membership in the Armed Forces, and the eligibility of individuals (civilian, military, or contractor employees) for security clearances, or for access to particularly sensitive classified information.

2. Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

B. Addresses. Home addresses are normally not releasable without the consent of the individuals concerned. In addition, lists of DoD military and civilian

personnel names and duty addresses who are assigned to units that are sensitive, routinely deployable, or stationed in foreign territories may be withheld under this exemption since release can constitute a clearly unwarranted invasion of personal privacy.

1. Privacy Interest. A privacy interest may exist in personal information even though the information has been disclosed at some place and time. If personal information is not freely available from sources other than the Federal Government, a privacy interest exists in its nondisclosure. The fact that the Federal Government expended funds to prepare, index, and maintain records on personal information and the fact that a requester invokes FOIA to obtain these records indicate that the information is not freely available.

2. Sensitive, Deployable, or Overseas Units. Published telephone directories, organizational charts, rosters and similar materials for personnel assigned to units that are sensitive, routinely deployable, or stationed in foreign territories are withholdable under this exemption.

C. Deceased Persons. This exemption shall not be used in an attempt to protect the privacy of a deceased person, but it may be used to protect the privacy of the deceased person's family.

D. Privacy Act Interface. Individuals' personnel, medical, or similar file may be withheld from them or their designated legal representative only to the extent consistent with DLAR 5400.21 and DLAH 5400.1.

E. Third Party Personal Information. A clearly unwarranted invasion of the privacy of the third party persons identified in a personnel, medical or similar record may constitute a basis for deleting those reasonably segregable portions of that record, even when providing it to the subject of the record. When withholding third party personal information from the subject of the record, legal counsel should first be consulted.

F. Releasing Information about Federal Civilian Employees and Military Members. Personal details of a Federal civilian employee's or military member's service may be withheld under exemption 6. However, the following information will be released to the public upon request:

1. Name.
2. Present and past position titles, grades, gross salaries, and duty stations (but see subparagraph B2).
3. Duty status at any given time (e.g., whether on sick leave, annual leave, temporary duty, etc.)
4. Unclassified performance rating elements, but not the rating itself.
5. Unclassified position descriptions.
6. Training and professional qualifications.
7. Information where there is clearly no privacy interests or expectations. In doubtful cases, consult with DLA-XAM or local counsel.

VII. Exemption 7, 5 U.S.C. 552(b)(7). Records or information compiled for law enforcement purposes; i.e., civil, criminal, or military law, including the implementation of executive orders or regulations issued pursuant to law. This exemption may be invoked to prevent disclosure of documents not originally created for, but later gathered for, law enforcement purposes.

A. This exemption applies, however, only to the extent that production of such law enforcement records or information could result in the following:

1. Could reasonably be expected to interfere with enforcement proceedings. (5 U.S.C. 552(b)(7)(A)).
2. Would deprive a person of the right to a fair trial or to an impartial adjudication. (5 U.S.C. 552(b)(7)(B)).
3. Could reasonably be expected to constitute an unwarranted invasion of personal privacy of a living person, including surviving family members of an individual identified in such a record. (5 U.S.C. 552(b)(7)(C)).

a. This exemption also applies when the fact of the existence or nonexistence of a responsive record would itself reveal personally private information, and the public interest in disclosure is not sufficient to outweigh the privacy interest. In this situation, DLA activities shall neither confirm nor deny the existence or nonexistence of the record being requested.

b. A "refusal to confirm or deny" response must be used consistently, not only when a record exists, but also when a record does not exist. Otherwise, the pattern of using a "no records" response when a record does not exist and a "refusal to confirm or deny" when a record does exist will itself disclose personally private information.

c. Refusal to confirm or deny should not be used when (1) the person whose personal privacy is in jeopardy has provided the requester with a waiver of his or her privacy rights; or (2) the person whose personal privacy is in jeopardy is deceased, and the agency is aware of that fact.

4. Could reasonably be expected to disclose the identity of a confidential source, including a source within the Department of Defense, a State, local, or foreign agency or authority, or any private institution which furnishes the information on a confidential basis. (5 U.S.C. 552(b)(7)(D)).

5. Could disclose information furnished from a confidential source and obtained by a criminal law enforcement authority in a criminal investigation or by an agency conducting a lawful national security intelligence investigation. (5 U.S.C. 552(b)(7)(D)).

6. Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. (5 U.S.C. 552(b)(7)(E)).

7. Could reasonably be expected to endanger the life or physical safety of any individual. (5 U.S.C. 552(b)(7)(F)).

B. Examples include:

1. Statements of witnesses and other material developed during the course of the investigation and all materials prepared in connection with related government litigation or adjudicative proceedings.

2. The identity of firms or individuals being investigated for alleged irregularities involving contracting with the Department of Defense when no indictment has been obtained nor any civil action filed against them by the United States.

3. Information obtained in confidence, expressed or implied, in the course of a criminal investigation by a criminal law enforcement agency or office within a DoD component, or a lawful national security intelligence investigation conducted by an authorized agency or office within a DoD component. National security intelligence investigations include background security investigations and those investigations conducted for the purpose of obtaining affirmative or counterintelligence information.

C. The right of individual litigants to investigative records currently available by law (such as, the Jencks Act, 18 U.S.C. 3500, is not diminished.

D. When the subject of an investigative record is the requester of the record, it may be withheld only as authorized by DLAR 5400.21 and DLAH 5400.1.

E. Exclusions. Excluded from the above exemption are the following two situations applicable to the Department of Defense:

1. Whenever a request is made which involves access to records or information compiled for law enforcement purposes, and the investigation or proceeding involves a possible violation of criminal law where there is reason to believe that the subject of the investigation or proceeding is unaware of its pendency, and the disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, DoD components may, during only such times as that circumstance continues, treat the records or information as not subject to

the FOIA. In such situation, the response to the requester will state that no records were found.

2. Whenever informant records maintained by a criminal law enforcement organization within a DoD component under the informant's name or personal identifier are requested by a third party using the informant's name or personal identifier, the component may treat the records as not subject to the FOIA, unless the informant's status as an informant has been officially confirmed. If it is determined that the records are not subject to exemption 7, the response to the requester will state that no records were found.

VIII. Exemption 8, 5 U.S.C. 552(b)(8). Those contained in or related to examination, operation or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

IX. Exemption 9, 5 U.S.C. 552(b)(9). Those containing geological and geophysical information and data (including maps) concerning wells.

EXEMPTIONS - CROSS REFERENCE CHART

Exemptions cited in the FOIA as they appear in this regulation:

<u>5 U.S.C. 552</u>	<u>DLAR 5400.14</u>
5 U.S.C. 552(b)(1)	Enclosure 3, Paragraph I
5 U.S.C. 552(b)(2)	Enclosure 3, Paragraph II
5 U.S.C. 552(b)(3)	Enclosure 3, Paragraph III
5 U.S.C. 552(b)(4)	Enclosure 3, Paragraph IV
5 U.S.C. 552(b)(5)	Enclosure 3, Paragraph V
5 U.S.C. 552(b)(6)	Enclosure 3, Paragraph VI
5 U.S.C. 552(b)(7)	Enclosure 3, Paragraph VII
5 U.S.C. 552(b)(8)	Enclosure 3, Paragraph VIII
5 U.S.C. 552(b)(9)	Enclosure 3, Paragraph IX

Dear

This is in response to your Freedom of Information Act letter dated _____ requesting records pertaining to _____. *Your request was received by our FOIA manager on _____.*

NOTE: When the time to respond becomes an issue, acknowledge the date of receipt as italicized above.

One of the documents is exempt from public disclosure pursuant to 5 U.S.C. 552(b)(5) since it consists of predecisional opinions and recommendations, the release of which would harm the deliberative process of this agency. In applying this exemption, we first determined that the document represents a direct part of the deliberative process in that it makes recommendations and expresses opinions on policy matters. Second, we determined that the recommendations have not been made a part of a final decision. We therefore conclude that the document meets the criteria for invoking exemption 5. *There are no reasonably segregable portions.*

NOTE: When fully denying a document, include the above italicized statement regarding segregable portions.

The remaining records are fully releasable and are enclosed.

You have the right to appeal this denial. Your appeal must be in writing, must be made within 60 days from the date of this letter and should include your reasons for reconsideration. Forward your appeal to the Director, Defense Logistics Agency, ATTN: DLA-G, Cameron Station, Alexandria, Virginia 22304-6100. Please reference our case number _____ and attach a copy of this letter.

Fees in the amount of \$86.40 are levied against your request. This covers 1/2 hour of clerical search at \$12 per hour; 2.5 hours of professional review at \$25 per hour; the duplication of 50 pages at \$.15 per page; and the authentication of 2 documents at \$5.20 each. This fee is currently due and payable. Please make your check payable to U. S. Treasury and forward it to {Insert complete mailing address of local FOIA manager}. Include our case number on the face of your check. If not received within 30 days after this billing, interest will accrue at the rates set by the Secretary of the Treasury as provided for under the Debt Collection Act of 1982 (Public Law 97-365).

Sincerely

NOTE. Full and partial denial letters must be coordinated with servicing counsel and signed by the head of the PSE or PLFA.

SAMPLE DENIAL LETTER

Presidential Documents

Executive Order 12600 of June 23, 1987

Predisclosure Notification Procedures for Confidential Commercial Information

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to provide predisclosure notification procedures under the Freedom of Information Act concerning confidential commercial information, and to make existing agency notification provisions more uniform, it is hereby ordered as follows:

Section 1. The head of each Executive department and agency subject to the Freedom of Information Act shall, to the extent permitted by law, establish procedures to notify submitters of records containing confidential commercial information as described in section 3 of this Order, when those records are requested under the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, if after reviewing the request, the responsive records, and any appeal by the requester, the department or agency determines that it may be required to disclose the records. Such notice requires that an agency use good-faith efforts to advise submitters of confidential commercial information of the procedures established under this Order. Further, where notification of a voluminous number of submitters is required, such notification may be accomplished by posting or publishing the notice in a place reasonably calculated to accomplish notification.

Sec. 2. For purposes of this Order, the following definitions apply:

(a) "Confidential commercial information" means records provided to the government by a submitter that arguably contain material exempt from release under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(b) "Submitter" means any person or entity who provides confidential commercial information to the government. The term "submitter" includes, but is not limited to, corporations, state governments, and foreign governments.

Sec. 3. (a) For confidential commercial information submitted prior to January 1, 1988, the head of each Executive department or agency shall, to the extent permitted by law, provide a submitter with notice pursuant to section 1 whenever:

(i) the records are less than 10 years old and the information has been designated by the submitter as confidential commercial information; or

(ii) the department or agency has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm.

(b) For confidential commercial information submitted on or after January 1, 1988, the head of each Executive department or agency shall, to the extent permitted by law, establish procedures to permit submitters of confidential commercial information to designate, at the time the information is submitted to the Federal government or a reasonable time thereafter, any information the disclosure of which the submitter claims could reasonably be expected to cause substantial competitive harm. Such agency procedures may provide for the expiration, after a specified period of time or changes in circumstances, of designations of competitive harm made by submitters. Additionally, such

procedures may permit the agency to designate specific classes of information that will be treated by the agency as if the information had been so designated by the submitter. The head of each Executive department or agency shall, to the extent permitted by law, provide the submitter notice in accordance with section 1 of this Order whenever the department or agency determines that it may be required to disclose records:

- (i) designated pursuant to this subsection; or
- (ii) the disclosure of which the department or agency has reason to believe could reasonably be expected to cause substantial competitive harm.

Sec. 4. When notification is made pursuant to section 1, each agency's procedures shall, to the extent permitted by law, afford the submitter a reasonable period of time in which the submitter or its designee may object to the disclosure of any specified portion of the information and to state all grounds upon which disclosure is opposed.

Sec. 5. Each agency shall give careful consideration to all such specified grounds for nondisclosure prior to making an administrative determination of the issue. In all instances when the agency determines to disclose the requested records, its procedures shall provide that the agency give the submitter a written statement briefly explaining why the submitter's objections are not sustained. Such statement shall, to the extent permitted by law, be provided a reasonable number of days prior to a specified disclosure date.

Sec. 6. Whenever a FOIA requester brings suit seeking to compel disclosure of confidential commercial information, each agency's procedures shall require that the submitter be promptly notified.

Sec. 7. The designation and notification procedures required by this Order shall be established by regulations, after notice and public comment. If similar procedures or regulations already exist, they should be reviewed for conformity and revised where necessary. Existing procedures or regulations need not be modified if they are in compliance with this Order.

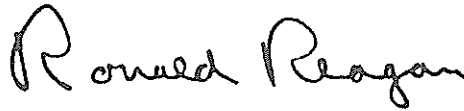
Sec. 8. The notice requirements of this Order need not be followed if:

- (a) The agency determines that the information should not be disclosed;
- (b) The information has been published or has been officially made available to the public;
- (c) Disclosure of the information is required by law (other than 5 U.S.C. 552);
- (d) The disclosure is required by an agency rule that (1) was adopted pursuant to notice and public comment, (2) specifies narrow classes of records submitted to the agency that are to be released under the Freedom of Information Act, and (3) provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm;
- (e) The information requested is not designated by the submitter as exempt from disclosure in accordance with agency regulations promulgated pursuant to section 7, when the submitter had an opportunity to do so at the time of submission of the information or a reasonable time thereafter, unless the agency has substantial reason to believe that disclosure of the information would result in competitive harm; or
- (f) The designation made by the submitter in accordance with agency regulations promulgated pursuant to section 7 appears obviously frivolous; except that, in such case, the agency must provide the submitter with written notice of any final administrative disclosure determination within a reasonable number of days prior to the specified disclosure date.

Sec. 9. Whenever an agency notifies a submitter that it may be required to disclose information pursuant to section 1 of this Order, the agency shall also notify the requester that notice and an opportunity to comment are being

provided the submitter. Whenever an agency notifies a submitter of a final decision pursuant to section 5 of this Order, the agency shall also notify the requester.

Sec. 10. This Order is intended only to improve the internal management of the Federal government, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

A handwritten signature in cursive script that reads "Ronald Reagan". The signature is written in dark ink and is positioned to the right of the typed text "THE WHITE HOUSE, June 23, 1987."

THE WHITE HOUSE,
June 23, 1987.

NOTIFICATION OF A FREEDOM OF INFORMATION ACT (FOIA) REQUEST FOR INFORMATION SUBMITTED BY A NON-US GOVERNMENT SOURCE

EXECUTIVE ORDER (E.O.) 12600 REQUIREMENTS. E.O. 12600 provides that submitters of confidential commercial information be notified whenever an agency determines that it may have to disclose such information under the FOIA. We have received an FOIA request for information you submitted and need your help in determining if the records requested are exempt from disclosure under the FOIA.

FOIA REQUIREMENTS. The FOIA requires that Federal agencies make agency records available to the public upon request unless specifically exempted from disclosure. Section (b) of the FOIA lists the nine types of records which may be withheld from the public. Exemption 4 of Section (b) protects "trade secrets and commercial or financial information obtained from a person [which is] privileged or confidential." [5 U.S.C. 552(b)(4).] This exemption protects the interests of both the Government and submitters of information. It ensures that agencies will continually be able to obtain necessary information from outside the Government and that they will be able to perform their statutory responsibilities efficiently and effectively. Exemption 4 also protects submitters of information from the competitive harm that could result from disclosure. This exemption covers two broad categories of information in agency records: (1) trade secrets, and (2) information which is (a) commercial or financial, and (b) obtained from an outside source, and (c) privileged or confidential.

NOTIFICATION OF DETERMINATION. Please review the material enclosed with this package to help us determine releasability under the FOIA. If you determine that it is releasable, we will provide the current requester with a copy and honor future FOIA requests for this material without notification to you. If you believe that release could be prejudicial to your commercial interests, clearly identify those specific portions that you believe should be withheld and include your basis for the withholding. This should not be merely a conclusory legal argument but a detailed factual discussion. The FOIA requires that any reasonably segregable portion of a record be provided to requesters. Therefore, if the deletion of key words or paragraphs would adequately protect your interests, please so indicate. Before invoking Exemption 4 on your behalf, we will carefully review your argument for nondisclosure and make a determination on the releasability of the material. If you are unable to substantiate the adverse impact on your competitive position or to your commercial interest, we will notify you of our intention to release the material and provide you with an opportunity to bar disclosure through the courts.

ADDITIONAL INSTRUCTIONS. Highlight the portions you believe to be exempt with yellow or non-reproducing marker. Whole pages may be diagonally lined through. Follow any additional instructions in the cover letter to this package and return your marked copy and justification for withholding by the date requested.

FEE SCHEDULE

I. GENERAL

A. Authorities. The Freedom of Information Act (5 U.S.C. 552), as amended by the Freedom of Information Reform Act of 1986; the Paperwork Reduction Act (44 U.S.C. 35); the Privacy Act of 1974 (5 U.S.C. 552a); the Budget and Accounting Act of 1921 (31 U.S.C. 1 et seq.); the Budget and Accounting Procedures Act (31 U.S.C. 67 et seq.); the Defense Authorization Act for FY 87, Section 954, (Public Law 99-661), as amended by the Defense Technical Corrections Act of 1987 (Public Law 100-26).

B. Fee Restrictions. The fees described in this enclosure apply to FOIA requests and conform to the Office of Management and Budget Uniform Freedom of Information Act Fee Schedule and Guidelines. They reflect direct costs for search, review (in the case of commercial requesters), and duplication of documents, the collection of which is permitted by the FOIA. They are neither intended to imply that fees must be charged in connection with providing information to the public in the routine course of business, nor are they meant as a substitute for any other schedule of fees, such as DLAR 7230.1, which does not supersede the collection of fees under the FOIA. Nothing in this regulation shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records. A "statute specifically providing for setting the level of fees for particular types of records" (5 U.S.C. 552(a)(4)(a)(vi)) means any statute that enables a Government agency such as the Government Printing Office (GPO) or the National Technical Information Service (NTIS), to set and collect fees. DLA activities should ensure that when documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs such as the GPO or NTIS, they inform requesters of the steps necessary to obtain records from those sources.

C. Cost of Collecting Fees. No fees may be charged by any DLA activity if the costs of routine collection and processing of the fee are likely to equal or exceed

the amount of the fee. The elements to be considered in determining the "cost of collecting a fee" are the administrative costs to the DLA activity of receiving and recording a remittance and processing the fee for deposit in the Department of Treasury's special account. The cost to the Department of Treasury to handle such remittance is negligible and shall not be considered in making such determinations.

II. REQUESTER CATEGORIES

A. Commercial Requesters

1. The term "commercial use" request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interest of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, DLA activities must determine the use to which a requester will put the documents requested. Moreover, where an activity has reasonable cause to doubt the use to which a requester will put the records sought or where that use is not clear from the request itself, DLA activities should seek additional clarification before assigning the request to a specific category.

2. Commercial requesters may be charged the full direct cost of:

- a. Searching for documents.
- b. Reviewing documents for release.
- c. Duplicating the records sought.

3. Commercial requesters (unlike other requesters) are not entitled to two hours of free search time, nor 100 free pages of reproduction of documents. Moreover, commercial requesters are not normally entitled to a waiver or reduction of fees based upon an assertion that disclosure would be in the public interest. However, because use is the exclusive determining criteria, it is possible to envision a commercial enterprise making a request that is not for commercial use. It is also possible that a nonprofit organization could make a request that is for commercial use. Such situations must be addressed on a case-by-case basis.

B. Educational Institution Requesters

1. The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

2. Educational institutions whose purpose is scholarly research may be charged for document duplication (excluding charges for the first 100 pages) when it is determined that disclosure of the records does not significantly enhance the public knowledge of the operations or activities of the DoD (See paragraph IIIB of this enclosure).

C. Noncommercial Scientific Institution Requesters

1. The term "noncommercial" scientific institution" refers to an institution that is not operated on a "commercial" basis as defined in paragraph IA above, and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

2. Scientific institutions whose purpose is scientific research may be charged for document duplication (excluding charges for the first 100 pages) when it is determined that disclosure of the records does not significantly enhance the public knowledge of the operations or activities of the DoD (see paragraph IIIB of this enclosure).

D. Representatives of the News Media

1. The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not meant to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this cat-

egory. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but DLA activities may also look to the past publication record of a requester in making this determination.

2. To be eligible for inclusion in this category, a requester must meet the criteria in subparagraph IID1 above, and his or her request must not be made for commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use. For example, a document request by a newspaper for records relating to the investigation of a defendant in a current criminal trial of public interest could be presumed to be a request from an entity eligible for inclusion in this category.

3. "Representative of the news media" does not include private libraries, private repositories of Government records, or middlemen, such as information vendors or data brokers.

4. News media representatives may be charged for document duplication (excluding charges for the first 100 pages) when it is determined that disclosure of the records does not significantly enhance the public knowledge of the operations or activities of the DoD (see paragraph IIIB of this enclosure).

E. All Other Requesters

1. Requesters who do not fit into any of the above categories, will be placed in the "All Other" category.

2. DLA activities shall charge fees which recover the full direct cost of searching for and duplicating records, except that the first two hours of search time and the first 100 pages of duplication shall be furnished without charge (see paragraph IIIJ7 of this regulation). However, requests from subjects about themselves will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit assessment of duplication fees only (see DLAR 5400.21).

3. DLA activities are reminded that this category of requester may also be eligible for a waiver or reduction of fees if disclosure of the information is in the public interest as described in paragraph IVJ of this regulation and paragraph III of this enclosure.

III. FEE WAIVERS

A. Automatic Waivers. Fees shall be automatically waived for all requesters, regardless of category, when assessable costs for an FOIA request total \$15.00 or less.

B. Waivers in the Public Interest

1. Documents shall be furnished without charge or at a reduced charge when the DLA activity determines that waiver or reduction of the fees is in the public interest because furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the Department of Defense and is not primarily in the commercial interest of the requester. Decisions to waive or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis. FOIA managers will evaluate the public interest and the commercial interests of the requester using the following factors:

a. Disclosure of the information "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government."

(1) The subject of the request. DLA activities should analyze whether the subject matter of the request involves issues which will significantly contribute to the public understanding of the operations or activities of DLA. Requests for records in the possession of the DLA which were originated by nongovernment organizations and are sought for their intrinsic content rather than informative value will likely not contribute to public understanding of the operations or activities of DLA. An example of such records might be press clippings, magazine articles, or records forwarding a particular opinion or concern from a member of the public regarding a DLA activity. Similarly, disclosures of records of considerable age may or may not bear directly on the current activities of DLA; however, the age of a particular record shall not be the sole criteria for denying relative significance under this factor. It is possible to envisage an informative issue concerning the current activities of DLA, based on historical documentation. Requests of this nature must be closely reviewed consistent with the requester's stated purpose for desiring the records and the po-

tential for public understanding of the operations and activities of DLA.

(2) The informative value of the information to be disclosed. This factor requires a close analysis of the substantive contents of a record, or portion of the record, to determine whether disclosure is meaningful, and shall inform the public on the operations or activities of DLA. While the subject of a request may contain information which concerns operations or activities of DLA, it may not always hold great potential for contributing to a meaningful understanding of these operations or activities. An example of such would be a heavily redacted record, the balance of which may contain only random words, fragmented sentences, or paragraph headings. A determination as to whether a record in this situation will contribute to the public understanding of the operations or activities of DLA must be approached with caution and carefully weighed against the arguments offered by the requester. Another example is information already known to be in the public domain. Disclosure of duplicative or nearly identical information already existing in the public domain may add no meaningful new information concerning the operations and activities of DLA.

(3) The contribution to an understanding of the subject by the general public likely to result from disclosure. The key element in determining the applicability of this factor is whether disclosure will inform, or have the potential to inform the public, rather than simply the individual requester or small segment of interested persons. The identity of the requester is essential in this situation in order to determine whether such requester has the capability and intention to disseminate the information to the public. Mere assertions of plans to author a book, researching a particular subject, doing doctoral dissertation work, or indigency are insufficient without demonstrating the capacity to further disclose the information in a manner which will be informative to the general public. Requesters should be asked to describe their qualifications, the nature of their research, the purpose of the requested information, and their intended means of dissemination to the public.

(4) The significance of the contribution to public understanding. In applying this factor, DLA activities must differentiate the relative significance or impact of the disclosure against the current level of public knowledge, or understanding which exists before the disclosure. In other words, will disclosure on a current subject of wide public interest be unique in contributing previously unknown facts, thereby enhancing public knowledge, or will it basically duplicate what is already known by the general public. A decision regarding significance requires objective judgment, rather than subjective determination, and must be applied carefully to determine whether disclosure will likely lead to a significant public understanding of the issue. DLA activities shall not make value judgments as to whether the information is important enough to be made public.

b. Disclosure of the information "is not primarily in the commercial interest of the requester."

(1) The existence and magnitude of a commercial interest. If the request is determined to be of a commercial interest, DLA activities should address the magnitude of that interest to determine if the requester's commercial interest is primary, as opposed to any secondary personal or noncommercial interest. In addition to profit-making organizations, individual persons or other organizations may have a commercial interest in obtaining certain records. Where it is difficult to determine whether the requester is of a commercial nature, DLA activities may draw inference from the requester's identity and circumstances of the request. DLA activities are reminded that in order to apply the commercial standards of the FOIA (see paragraph IIA of this enclosure), the requester's commercial benefit must clearly override any personal or nonprofit interest.

(2) The primary interest in disclosure. Once a requester's commercial interest has been determined, DLA activities should then determine if the disclosure would be primarily in that interest. This requires a balancing test between the commercial interest of the request against any public benefit to be derived as a result of that disclosure. Where the public interest is served above and beyond that of the requester's commercial interest, a waiver or reduction of fees would be appropriate. Conversely, even if a significant public interest exists, and the relative commercial interest of the requester is determined to be greater than the public interest, then a waiver or reduction of fees would be inappropriate.

ate. As examples, news media organizations have a commercial interest as business organizations; however, their inherent role of disseminating news to the general public can ordinarily be presumed to be of a primary interest. Therefore, any commercial interest becomes secondary to the primary interest in serving the public. Similarly, scholars writing books or engaged in other forms of academic research, may recognize a commercial benefit either directly or indirectly (through the institution they represent); however, normally such pursuits are primarily undertaken for educational purposes, and the application of a fee charge would be inappropriate. Conversely, data brokers or others who merely compile government information for marketing can normally be presumed to have an interest primarily of a commercial nature.

2. The above factors and examples are not all inclusive. Each fee decision must be considered on a case-by-case basis and upon the merits of the information provided in each request. When the element of doubt as to whether to charge or waive the fee cannot be clearly resolved, the DLA activity should rule in favor of the requester.

3. The following additional circumstances describe situations where waiver or reduction of fees are most likely to be warranted:

a. When a previous denial of records is reversed in total or in part and the assessable costs are not substantial (e. g., \$15 - \$30).

b. When a record is voluntarily created to preclude an otherwise burdensome effort to provide voluminous amounts of available records, including additional information not requested (see paragraph IIH of this regulation).

IV. ASSESSING COSTS AND CHARGEABLE FEES

A. General. The fee rates in this enclosure shall be used to compute the costs associated with processing a given FOIA request. (see paragraph VI of this enclosure for FOIA requests involving technical data). For reporting purposes, all time spent on a FOIA request, including time not chargeable to the requester, is to be recorded on DLA Form 1786. Fees may not be used to discourage requesters, and, to this end, FOIA fees to be charged a requester are limited to standard charges for direct document search, review (in the case of commercial requesters), and duplication. Costs shall be computed on time actually

spent. Neither time-based nor dollar-based minimum charges for search, review and duplication are authorized except in the case of technical data requests.

B. Cost Factors

1. **Direct Costs.** Those expenditures an activity actually makes in searching for, reviewing (in the case of commercial requesters), and duplicating documents to respond to an FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the costs of operating duplicating machinery. These factors have been included in the fee rates prescribed at paragraph VB of this enclosure. Not included in direct costs are overhead expenses such as costs of space, heat, or lighting the facility in which the records are stored.

2. **Search.** All time spent looking for material that is responsive to a request. Search also includes a page-by-page or line-by-line identification (if necessary) of material within a document to determine if it or portions thereof are responsive to the request. Where a DLA activity must travel to a separate location to conduct the search, the round trip travel time will be recorded as part of the search. DLA activities will ensure that searches are done in the most efficient and least expensive manner so as to minimize costs for both DLA and the requester. For example, DLA activities should not engage in line-by-line searches when duplicating an entire document known to contain responsive information would prove to be the less expensive and quicker method of complying with the request. Time spent reviewing documents in order to determine whether to apply one or more of the statutory exemptions is not search time, but review time.

3. **Computer Search.** The direct cost of operating the computer equipment and the operator/programmer time. The computer equipment includes the central processing unit, input-output devices, and memory capacity of the actual computer configuration. Where the direct cost cannot be computed, the standard rates in subparagraph VB2 of this enclosure will be used. The computer operator or programmer time will include the time to determine how to conduct and subsequently execute the search. The computer operator or programmer's time will be at the established hourly rates in subparagraph VB1 of this

enclosure. In assessing computer search fees for requesters entitled to two free hours of search, the two free hours will be determined against the salary scale of the individual operating the computer for the purposes of the search. As an example, when the direct costs of the computer central processing unit, input-output devices, and memory capacity equal \$24.00 (two hours of equivalent search at the clerical level), amounts of computer costs in excess of that amount are chargeable as computer search time.

4. **Duplication.** The process of making a copy of a document in response to an FOIA request. Such copies can take the form of paper copy, microfiche, audiovisual, or machine readable documentation (e.g., magnetic tape or disc), among others. Every effort will be made to ensure that the copy provided is in a form that is reasonably usable, the requester shall be notified that the released copy is the best available and that the agency's master copy shall be made available for review upon appointment. For duplication of computer tapes and audiovisual, the actual cost, including the operator's time, shall be charged. In practice, if an activity estimates that assessable duplication charges are likely to exceed \$25.00, it shall notify the requester of the estimate, unless the requester has indicated a willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with DLA personnel with the object of reformulating the request to reduce costs.

5. **Review.** The process of examining documents located in response to an FOIA request to determine whether one or more of the statutory exemptions permit withholding. It also includes processing the documents for disclosure, such as excising them for release. Review does not include the time spent resolving general legal or policy issues regarding the application of exemptions. It should be noted that charges for commercial requesters may be assessed only for the initial review. DLA activities may not charge for reviews required at the administrative appeal level for an exemption already applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review would be properly assessable.

6. Pages. Paper copies of a standard size, which will normally be "8 1/2 x 11" or "11 x 14", or the equivalent in microfiche or computer disk form. Thus, requesters who qualify for 100 "pages" of duplication without charge would not be entitled to 100 microfiche or 100 computer disks. Instead, they would qualify for the equivalent of 100 pages; i.e., 5 fiche each containing 20 images or a computer diskette containing 100 pages of information.

7. Indirect Costs. Costs incurred indirectly by an activity such as the cost of space, heating or lighting facilities, and employee benefit programs. Indirect costs may only be charged to those FOIA requesters who seek technical data (see paragraph VI of this enclosure). Such costs are only be included on DLA Form 1786 when billed to a technical data requester.

C. Advance Payments. No DLA activity may require advance payment of any fee (i.e., payment before work is commenced or continued on a request) except in the following circumstances:

1. Lack of Timely Payment. The requester has previously failed to pay fees in a timely fashion. As used in this sense, a timely fashion is 30 calendar days from the date of billing by the DLA activity. (See paragraph IVD below).

2. Fees in Excess of \$250. The activity has determined that the fee will exceed \$250.00 and the activity has no payment history on the individual. In such cases, DLA activities may require an advance payment of an amount up to the full estimated charges. Alternatively, the FOIA manager may notify the requester of the likely cost and obtain satisfactory assurance of full payment.

NOTE: In cases where fees will exceed \$250 and the requester has a favorable payment history, the FOIA manager may secure verbal agreement to pay the fees. DLA activities may not hold documents ready for release pending payment from requesters with a history of prompt payment.

D. Delinquent Accounts. Where a requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 calendar days from the date of the billing), the DLA activity may require the requester to pay the full amount owed plus any applicable interest and to make an advance payment of the full amount of the estimated fee before the activity begins to process a new or pending request from the requester.

E. Effect of the Debt Collection Act of 1982 (Public Law 97-365). The Debt Collection Act of 1982 (Public Law 97-365) provides for a minimum annual rate of interest to be charged on overdue debts owed the Federal Government. DLA activities may levy this interest penalty for any fees that remain outstanding 30 calendar days from the date of billing (the first demand notice) to the requester of the amount owed. The interest rate shall be as prescribed in 31 U.S.C. 3717. DLA activities should verify the current interest rate with the Defense Finance and Accounting Service. After one demand letter has been sent, and 30 calendar days have lapsed with no payment, DLA activities may submit the debt to DFAS/XR, P. O. Box 182317, Columbus, Ohio 43218-2317, for collection pursuant to the Debt Collection Act of 1982. DLA-XAM will be notified of such action.

F. Charging for Nonproductive Searches. DLA activities may charge for time spent searching for records, even if that search fails to locate records responsive to the request. DLA activities may also charge search time (and review in the case of commercial requesters) if records located are determined to be exempt from disclosure. In practice, if the DLA activity estimates that search charges are likely to exceed \$25.00, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his or her willingness to pay fees as high as those anticipated. Such a notice shall offer the requester the opportunity to confer with DLA personnel with the object of reformulating the request to meet his or her needs at a lower cost.

G. Aggregating Requests. Except for requests that are for a commercial use, a DLA activity may not charge for the first two hours of search time or for the first 100 pages of reproduction. However, a requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When an activity reasonably believes that a requester or, on rare occasions, a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of avoiding the assessment of fees, the agency may aggregate any such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period in which the requests have occurred. For example, it would be reasonable to presume that multiple requests of this type made

within a 30 day period had been made to avoid fees. For requests made over a longer period, however, such a presumption becomes harder to sustain and DLA activities should have a solid basis for determining that aggregation is warranted in such cases. DLA activities are cautioned that before aggregating requests from more than one requester, they must have a concrete basis on which to conclude that the requesters are acting in concert and are acting specifically to avoid payment of fees. In no case may DLA activities aggregate multiple requests on unrelated subjects from one requester.

V. COLLECTION OF FEES AND FEE RATES

A. Collection of Fees. Collection of fees will normally be made at the time of providing the documents to the requester or recipient when the requester specifically states that the costs involved shall be acceptable or acceptable up to a specified limit that covers the anticipated costs. Collection of fees may not be made in advance provided the conditions in paragraph IVC above are satisfied.

B. Fee Rates

1. Manual Search Time

<u>Type</u>	<u>Grade</u>	<u>Hourly Rate (\$)</u>
Clerical	E9/GS8 and below	12
Professional	01-06/GS9-GS/GM15	25
Executive	07/GS/GM16/ES1 and above	45

2. Computer Search. Add together the direct cost of the central processing unit (CPU), input-output devices, and memory capacity of the actual computer configuration. To this figure, add the operator/programmer cost. Where direct costs of equipment cannot be determined, PLFA's may use the per minute rate for mainframe computers or the per hour rate for personal computers.

a. Mainframe Computers: Direct costs or \$20 per minute of central processing unit (CPU) time. CPU time is the number of seconds (or fractionals) that the CPU is actually engaged in the task. If your mainframe is not set up to provide the number of CPU minutes used in a task, then the hourly rate for personal computers may be used. Note that the personal computer rate is the actual number of minutes that has passed on a conventional wall clock.

b. Personal Computers: Direct costs or \$20 per hour of wall clock time. This rate covers the actual time that has elapsed on a conventional wall clock from task start to task completion.

c. Operators/Programmers: Multiply the actual hours by the manual search rate in subparagraph B1, above.

3. Review Time (In the case of commercial requesters).

<u>Type</u>	<u>Grade</u>	<u>Hourly Rate (\$)</u>
Clerical	E9/GS8 and below	12
Professional	01-06/GS9-GS/GM15	25
Executive	07/GS/GM16/ES1 and above	45

4. Duplication

<u>Type</u>	<u>Cost per Page (\$)</u>
Pre-Printed material	.02
Office copy	.15
Microfiche	.25

5. Computer Copies. Actual cost of duplicating the tape or printout (includes operator's time and cost of the tape).

6. Audiovisual Documentary Materials. Search costs are computed as for any other record. Duplication cost is the actual direct cost of reproducing the material, including the wage of the person doing the work. Audiovisual materials provided to a requester need not be in reproducible format or quality.

7. Other Records. Direct search and duplication cost for any record not described above shall be computed in the manner described for audiovisual documentary material.

8. Costs for Special Services. Complying with requests for special services is at the discretion of the DLA activities. Neither the FOIA, nor its fee structure cover these kinds of services. Therefore, DLA activities may recover the costs of special services requested after agreement has been obtained from the requester to pay for one or more of the following services:

a. Certifying that records are true copies (see DLAR 5105.5).

b. Sending records by special methods, such as express mail.

C. Depositing Fees. FOIA managers will deposit fees for FOIA services in the FOIA receipt account established by the Treasurer of the United States (see paragraph VIIIO of this regulation).

VI. FEES FOR TECHNICAL DATA

A. Collection of Fees for Technical Data

1. General. Technical data, other than technical data that discloses critical technology with military or space application, if required to be released under the FOIA, shall be released after the person requesting such technical data pays all reasonable costs attributed to search, duplication and review of the records to be released. The term technical data, as used in this regulation, means recorded information, regardless of the form or method of the recording of a scientific or technical nature (including computer software documentation). This term does not include computer software, or data incidental to contract administration, such as financial and/or management information. DLA activities shall retain the amounts received by such a release, and it shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs were incurred in complying with request. All reasonable costs as used in this sense are the full costs to the Federal Government of rendering the service, or fair market value of the service, whichever is higher. Fair market value shall be determined in accordance with commercial rates in the local geographical area. In the absence of a known market value, charges shall be based on recovery of full costs to the Federal Government. The full costs shall include all direct and indirect costs to conduct the search and to duplicate the records responsive to the request. This cost is to be differentiated from the direct costs allowable under paragraph IV of this enclosure for other types of information released under the FOIA.

2. Depositing Fees for Technical Data. DLA activities shall not deposit fees for technical data into the U.S. Treasury Department's FOIA Receipt account (see paragraph VIIIO of this regulation). Instead, fees shall be deposited in the appropriate receipt account of the activity which incurred the expense.

3. Waiver. DLA activities shall waive the payment of costs required in paragraph VIA1 above, which are greater than the costs that would be required for release of this same information under paragraph IV of this enclosure if:

a. The request is made by a citizen of the United States or a United States corporation and such citizen or corporation certifies that the technical data requested is required to enable it to submit an offer, or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States. However, DLA activities may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, which will be refunded upon submission of an offer by the citizen or corporation;

b. The release of technical data is requested in order to comply with the terms of an international agreement; or,

c. The DLA activity determines in accordance with the criteria in paragraph IIIB of this enclosure that such a waiver is in the interest of the United States.

B. Fee Rates for Technical Data

1. Clerical Search and Review Time (E9/GS8 and Below). \$13.25 per hour. A minimum charge of \$8.30 will apply.

2. Professional and Executive Search and Review Time. Will be established at actual hourly rate prior to search or review. A minimum charge will be established at 1/2 hourly rates.

3. Computer Search. Add together the direct cost of the central processing unit (CPU), input-output devices, and memory capacity of the actual computer configuration. To this figure, add the operator/programmer cost. Where direct costs of equipment cannot be determined, PLFA's may use the per minute rate for mainframe computers or the per hour rate for personal computers.

a. Mainframe Computers: Direct costs or \$20 per minute of central processing unit (CPU) time. CPU time is the number of seconds (or fractionals) that the CPU is actually engaged in the task. If your mainframe is not set up to provide the number of CPU minutes used in a task, then the hourly rate for personal computers may be used. Note that the personal computer rate is the actual number of minutes that has passed on a conventional wall clock.

b. Personal Computers: Direct costs or \$20 per hour of wall clock time. This rate covers the actual time that has elapsed on a conventional wall clock from task start to task completion.

c. Operators/Programmers: Base charges on the actual time used by the operator/programmer in determining how to conduct and subsequently exe-

cute the search. Multiply the actual hours by the preestablished rate.

4. Duplication

<u>Type</u>	<u>Cost</u>
Aerial photographs, specifications, permits, charts, blueprints, and other technical documents	\$2.50

Engineering Data (Microfilm)

Aperture Cards:

Silver duplicate negative, per card	.75
When keypunched and verified, per card	.85
Diazo duplicate negative, per card	.65
When keypunched and verified, per card	.75

Film

35mm Roll Film, Per Frame	.50
16mm roll film, Per Frame	.45
Paper Prints (Engineering Drawings), Each	1.50
Paper Reprints of Microfilm Indices, Each	.10

5. Other Technical Data Records. Charges for any additional services not specifically provided for in paragraph B, above, consistent with DLAR 7230.1, User Charges, shall be made by DLA activities at the following rates:

Minimum charge for office copy (up to six images)	\$3.50
Each additional image10
Each typewritten page	3.50
Certification and validation with seal, each	5.20
Handdrawn plots or sketches, each hour or fraction thereof	12.00

APPEALS

I. GENERAL

A. Appeals to Record Denials. Requesters denied access to records under the provisions of paragraph IIIP of this regulation or enclosure 3 may appeal such determinations to the Director, DLA. The appeal should be accompanied by a copy of the letter denying the initial request and contain the basis for disagreement with the initial refusal. A final agency decision will be made within the time limits of paragraph II below.

B. Appeals to a No-Record Finding. Requesters have the right to appeal any no-record finding to the FOIA manager of the activity that issued the finding. The letter of appeal should include the case number and, where appropriate, reasons why the requester believes the activity should have records on the subject matter. Using the information supplied by the requester, the FOIA manager will direct that a second search be conducted. If the second search produces no documents, the appeal will be forwarded to HQ DLA-G, Cameron Station, Alexandria, Virginia 22304-6100, along with a copy of the case file. The FOIA manager will include a copy of DLA Form 1786 and an explanation of the method of search and the types of offices searched. A final agency decision will be made within the time limits of paragraph II below.

C. Appeals to Fee Waiver Denials or Requester Category Decisions. Requesters may appeal an initial determination regarding placement in a certain fee assessment category or waiver or reduction of fees when disclosure serves the public interest. Requesters will include a basis for disagreement and submit the appeal to the Staff Director, Office of Administration (ATTN: DLA-XAM), Cameron Station, Alexandria, Virginia 22304-6100. A final agency decision will be made within the time limits of paragraph II below.

II. TIME LIMITS

A. Time Limits to File Appeals. The requester shall be advised to file an appeal so that it reaches the appellate authority no later than 60 calendar days after the date of the initial denial letter. At the conclusion of this period, the case may be considered closed; however, such closure does not preclude the

requester from filing litigation. In cases where the requester is provided several incremental determinations for a single request, the time for the appeal shall not begin until the requester receives the last such notification.

B. Time of Receipt. An FOIA appeal is considered received by DLA when it reaches DLA-G or, in the case of fee appeals, DLA-XAM. Misdirected appeals should be referred expeditiously to the appropriate office.

C. Time Limits to Decide Appeals. Final determinations on appeals normally shall be made within 20 working days after receipt.

D. Delay in Responding to an Appeal

1. If additional time is needed due to the unusual circumstances described in paragraph VIII of this regulation, the final decision may be delayed for the number of working days (not to exceed 10), that were not used as additional time for responding to the initial request.

2. If a determination cannot be made and the requester notified within 20 working days, the appellate authority shall acknowledge to the requester, in writing, the date of receipt of the appeal, the circumstances surrounding the delay, and the anticipated date for substantive response. Requesters shall be advised that, if the delay exceeds the statutory extension provision or is for reasons other than the unusual circumstances identified in paragraph VIII of this regulation, they may consider their administrative remedies exhausted. They may, however, without prejudicing their right of judicial remedy, await a substantive response. DLA shall continue to process the case expeditiously, whether or not the requester seeks a court order for release of the records, but a copy of any response provided subsequent to filing of a complaint shall be forwarded to the Department of Justice.

3. When the appellate authority or the authority's representative must consult with the requester over an issue not previously settled, such as agreement to pay fees for documents previously denied, then any delays on the requester's part will not count toward the 20-day time limit.

III. RESPONSE TO THE REQUESTER

A. When an appellate authority makes a determination to release all or a portion of records withheld by an IDA, a copy of the records so released should be forwarded promptly to the requester after compliance with any preliminary procedural requirements, such as payment of fees.

B. Final refusal to provide a requested record must be made in writing by the DLA Director or his designee. In the case of fee appeals, final refusal to waive or reduce fees must be made in writing by the Staff Director of Administration. Record denial responses, at a minimum, shall conform to the following:

1. The basis for the refusal shall be explained to the requester with regard to the applicable statutory exemption or exemptions invoked under provisions of this regulation.

2. When the final refusal is based in whole or in part on a security classification, the explanation shall include a determination that the record meets the cited criteria and rationale of the governing Executive Order, and that this determination is based on a declassification review, with the explanation of how

that review confirmed the continuing validity of the security classification.

3. The response shall advise the requester that the material being denied does not contain meaningful portions that are reasonably segregable.

4. The response shall advise the requester of the right to judicial review.

IV. CONSULTATION

A. Final refusal involving issues not previously resolved or that are known to be inconsistent with rulings of other DoD components ordinarily should not be made without first consulting with the Office of the General Counsel of the Department of Defense.

B. Tentative decisions to deny records that raise new or significant legal issues of potential significance to other agencies of the Government shall be provided to the Department of Justice, ATTN: Office of Legal Policy, Office of Information and Policy, Washington, DC 20530.

V. RECORDS MANAGEMENT. Case files of appeals shall be retained by DLA-G or, in the case of fee appeals, by DLA-XAM for a period of six years to meet the statute of limitations of claims requirement.

JUDICIAL ACTIONS

I. GENERAL

A. This section states current legal and procedural rules for the convenience of the reader. The statements of rules do not create rights or remedies not otherwise available, nor do they bind the Department of Defense to particular judicial interpretations or procedures.

B. A requester may seek an order from a United States District Court to compel release of a record after administrative remedies have been exhausted; i.e., when refused a record by the Director of DLA or an appellate designee; when DLA has failed to respond within the time limits prescribed by the FOIA; or when the Director of DLA or an appellate designee has affirmed a "no record" finding.

II. JURISDICTION. The requester may bring suit in the United States District Court in the district in which the requester resides or is the requester's place of business, in the district in which the record is located, or in the District of Columbia.

III. BURDEN OF PROOF. The burden of proof is on DLA to justify a refusal to provide a record. The court shall evaluate the case de novo (anew) and may elect to examine any requested record in camera (in private) to determine whether the denial was justified.

IV. ACTIONS BY THE COURT

A. When a DLA activity has failed to make a determination within the statutory time limits but can demonstrate due diligence in exceptional circumstances, the court may retain jurisdiction and allow DLA additional time to complete its review of the records.

B. If the court determines that the requester's complaint is substantially correct, it may require the United States to pay reasonable attorney fees and other litigation costs.

C. When the court orders the release of denied records, it may also issue a written finding that the circumstances surrounding the withholding raise

questions whether DoD component personnel acted arbitrarily and capriciously. In these cases, the special counsel of the Merit System Protection Board shall conduct an investigation to determine whether or not disciplinary action is warranted. The DoD component is obligated to take the action recommended by the special counsel.

D. The court may punish the responsible official for contempt when a DoD component fails to comply with the court order to produce records that it determines have been withheld improperly.

V. NON-UNITED STATES GOVERNMENT SOURCE INFORMATION. A requester may bring suit in a U.S. District Court to compel the release of records obtained from a nongovernment source or records based on information obtained from a nongovernment source. Such source shall be notified promptly of the court action. When the source advises that it is seeking court action to prevent release, the DLA activity shall defer answering or otherwise pleading to the complainant as long as permitted by the Court or until a decision is rendered in the court action of the source, whichever is sooner.

VI. LITIGATION STATUS SHEET. FOIA managers shall be aware of litigation under the FOIA. Such information will provide management insights into the use of the nine exemptions by DLA personnel. The Litigation Status Sheet at ATT 1 to this enclosure provides a standard format for recording information concerning FOIA litigation. Whenever a complaint under the FOIA is filed in a U.S. District Court, the DLA activity named in the complaint shall complete items 1 through 6 of the Litigation Status Sheet and forward it along with a copy of the complaint to DLA-XAM, Cameron Station, Alexandria, Virginia 22304-6100, for forwarding to the Office of the Secretary of Defense. An information copy will also be forwarded to the General Counsel, DLA-G, at the above address. A revised Litigation Status Sheet shall be provided at each stage of the litigation.

LITIGATION STATUS SHEET

1. Case Number:*
2. Requester:
3. Document Title or Description:
4. Litigation
 - a. Date Complaint Filed:
 - b. Court:
 - c. Case File Number:*
5. Defendants (agency and individual):
6. Remarks: (brief explanation of what the case is about)
7. Court Action
 - a. Court's Finding:
 - b. Disciplinary Action (as appropriate):
8. Appeal (as appropriate):
 - a. Date Complaint Filed:
 - b. Court:
 - c. Case File Number*
 - d. Court's Finding:
 - e. Disciplinary Action (as appropriate):

* Number used by DLA activity for reference purposes.

EDUCATION AND TRAINING

I. GENERAL

A. Educational and training programs will be established by each PLFA FOIA manager to promote a positive attitude among DLA personnel and raise the level of understanding and appreciation of the DLA FOIA Program, thereby improving the interaction with members of the public and improving the public trust. The educational programs should be targeted toward all members of the PLFA, developing a general understanding and appreciation of the DLA FOIA Program. The training programs should be focused toward those personnel who are involved in the day-to-day processing of FOIA requests and should provide a thorough understanding of the procedures outlined in this regulation.

B. Each PLFA shall design its FOIA educational and training programs to fit the particular requirements of personnel dependent upon their degree of involvement in the implementation of this regulation.

The program should be designed to accomplish the following objectives:

1. Familiarize personnel with the requirements of the FOIA and its implementation by this regulation.
2. Instruct personnel who act on FOIA matters concerning the provisions of this regulation, advising them of the legal hazards involved and the strict prohibition against arbitrary and capricious withholding of information.
3. Provide for the procedural and legal guidance and instruction, as may be required, in the discharge of the responsibilities of the initial denial authorities.
4. Advise personnel of the penalties for noncompliance with the FOIA.

II. IMPLEMENTATION. To ensure uniformity of interpretation, all major educational and training materials developed to implement this regulation shall be coordinated with the DLA Freedom of Information Act office (DLA-XAM).

GAINING ACCESS TO DLA RECORDS

I. GENERAL. The Defense Logistics Agency was established pursuant to authority vested in the Secretary of Defense and is an agency of DoD under the direction, authority, and control of the Assistant Secretary of Defense (Production and Logistics) and is subject to DoD policies, directives, and instructions. DLA is made up of a headquarters and 22 Primary Level Field Activities (PLFA's). DLA does not have a central repository for its records. FOIA requests, therefore, should be addressed to the FOIA Office of the DLA activity that has custody of the record desired. In answering inquiries regarding FOIA requests, DLA personnel will assist requesters in determining the correct DLA activity to address their requests. If there is uncertainty as to the ownership of the DLA record desired, the requester may be referred to the FOIA manager of the DLA activity most likely to have the record or to HQ DLA-XAM.

II. DESCRIPTION OF DLA'S CENTRAL AND FIELD ORGANIZATION

A. HQ Defense Logistics Agency, Cameron Station, Alexandria, Virginia 22304-6100. The headquarters is organized by broad functional area and includes the following offices and directorates:

- Office of the Director
- Executive Director, Contracting
- Executive Director, Supply Operations
- Executive Director, Technical and Logistics Services
- Executive Director, Contract Administration
- Executive Director, Quality Assurance
- Executive Director, Program and Technical Support
- Staff Director, Congressional Affairs
- Staff Director, Public Affairs
- Staff Director, Command Security
- Staff Director, Administration
- Staff Director, Civilian Personnel
- Staff Director, Contracting Integrity
- Staff Director, Military Personnel
- Staff Director, Small and Disadvantaged Business Utilization

- Staff Director, Installation Services and Environmental Protection
- Assistant Director, Information Systems and Technology
- Assistant Director, Policy and Plans
- General Counsel
- Comptroller

B. The PLFA's. The 22 PLFA's are organized into six supply centers, four depots, six service centers, and six contract districts.

1. Supply Centers. The six supply centers are responsible for materiel management of assigned commodities and items of supply relating to food, clothing, textiles, medical, chemical, petroleum, industrial, construction, electronics, and general items of supply. The six supply centers are:

a. Defense Construction Supply Center (DCSC). Buys and manages construction materials, automotive, and construction equipment components, and many repair parts used by the Military Services and other Federal agencies. Manages items ranging from common commercial items such as lumber and plumbing accessories to complex repair parts for mechanical, construction, and automotive equipment, and for military aircraft, surface ships, submarines, combat vehicles, and missile systems.

b. Defense Electronics Supply Center (DESC). Responsible for the acquisition, management, and supply of more than one-half million electronic components such as resistors, capacitors, tubes, transformers, microcircuits, and components for various communications and weapons systems.

c. Defense Fuel Supply Center (DFSC). Serves and material manager for bulk petroleum and coal with DoD and is responsible for its worldwide supply, storage, and distribution.

d. Defense Industrial Supply Center (DISC). Buys and manages industrial items such as bearings, ferrous and nonferrous metals, electrical wire, gasket material, and certain mineral ores and precious metals.

e. Defense Personnel Support Center (DPSC). Buys and manages food, clothing, and medical supplies for all the Armed Services, some Federal agencies and authorized foreign governments.

f. Defense General Supply Center (DGSC). Buys and manages such categories of materials as electrical hardware, materials handling equipment, kitchen and laundry equipment, woodworking and metalworking machines, photographic supplies, and precision measuring instruments.

2. Depots. DLA depots are responsible for the receipt, storage, and distribution of DLA-managed materiel. The principal depots are:

Defense Distribution Region West (DDRW)
Defense Distribution Region East (DDRE)
Defense Depot Memphis (DDMT)
Defense Depot Ogden (DDOU)

3. Service Centers. DLA operates six service centers which provide technical and logistics services. The service centers are:

a. Defense Logistics Services Center (DLSC). Responsible for maintenance of the Federal Supply Catalog System, including the development and dissemination of cataloging and item intelligence data to the Military Departments and other authorized customers.

b. Defense Reutilization and Marketing Service (DRMS). The central clearinghouse for the reutilization, donation, sale, or disposal of DoD-owned excess property, including scrap and waste.

c. Defense Industrial Plant Equipment Center (DIPEC). Manages the reserve of DoD-owned industrial plant equipment. The center repairs, rebuilds, and updates equipment to avoid new procurement costs.

d. DLA Administrative Support Center (DASC). Provides general administrative support to designated DLA activities.

e. Defense National Stockpile Center (DNSC). Maintains the national reserve of strategic materials stored for use in event of war or other national emergency.

f. DLA Systems Automation Center (DSAC). Develops and maintains DLA's automated and computerized systems.

4. Contract Districts. Six districts, each responsible for contracts covering a multistate or specialized

area, administer materiel contracts after they are awarded by the military services, defense agencies, some civil agencies, and certain foreign governments. The districts are:

Defense Contract Management District
Northeast (DCMDN)
Defense Contract Management District
Mid Atlantic (DCMDM)
Defense Contract Management District
North Central (DCMDC)
Defense Contract Management District
South (DCMDS)
Defense Contract Management District
West (DCMDW)
Defense Contract Management Command
International (DCMCI)

III. REQUESTER REQUIREMENTS

A. Addressing Requests. Address requests to the DLA PLFA most likely to hold the records (see paragraph V below for mailing addresses of FOIA managers). If the PLFA is undeterminable, address requests to HQ DLA-XAM for proper routing. Requests must be in writing.

B. Description of Records. Provide a reasonable description of the documents you are seeking. If you have detailed information which would help reduce the search time involved, please include it in your request. If you have a document which references the DLA record you seek, include a copy of that document.

C. Fees and Fee Waivers. State your willingness to pay fees above the \$15 automatic waiver or provide a justification for waiver of all or part of the costs. Waiver requests must address with specificity each of the six fee waiver elements in enclosure 4.

IV. AVAILABILITY OF DLA PUBLICATIONS.

Unrestricted DLA regulations, manuals, and handbooks may be purchased from the DLA publications sales outlet. DLA Handbook 5025.1, Defense Logistics Agency Index of Publications, is published quarterly and may be used to help you identify publications of interest to you. Orders for publications may be placed through DLA-XPD, Cameron Station, Alexandria, VA 22304-6100. That office will advise you of cost before completing your order.

V. FOIA MAILING ADDRESSES

HQ Defense Logistics Agency
ATTN: DLA-XAM
Cameron Station
Alexandria, VA 22304-6100

Defense Construction Supply Center
ATTN: DCSC-WXA
3990 E. Broad Street
Columbus, Ohio 43216-5000

Defense Electronics Supply Center
ATTN: DESC-WXA
1507 Wilmington Pike
Dayton, Ohio 45444-5252

Defense Fuel Supply Center
ATTN: DFSC-DB
Cameron Station
Alexandria, VA 22304-6160

Defense General Supply Center
ATTN: DGSC-DB
Richmond, VA 23297-5000

Defense Industrial Supply Center
ATTN: DISC-PPR
700 Robbins Avenue
Philadelphia, PA 19111-5096

Defense Personnel Support Center
ATTN: DPSC-WXA
2800 South 20th. Street
Philadelphia, PA 19101-8419

Defense Distribution Region East
ATTN: DDRE-WX
New Cumberland, PA 17070-5001

Defense Depot Memphis
ATTN: DDMT-WX
2163 Airways Blvd.
Memphis, TN 38114-5000

Defense Depot Ogden
ATTN: DDOU-G
800 West 12th Street
Ogden, Utah 84407-5000

Defense Distribution Region West
ATTN: DDRW-WX
Tracy, California 95376-5000

Defense National Stockpile Center
ATTN: DNSC-L
1745 Jefferson Davis Highway
Crystal Square #4, Suite 100
Arlington, VA 22202-3402

Defense Industrial Plant Equipment Center
ATTN: DIPEC-LP
2163 Airways Blvd.
Memphis, TN 38114-5051

Defense Logistics Services Center
ATTN: DLSC-WXA
74 N. Washington Avenue
Battle Creek, MI 49017-3084

DLA Systems Automation Center
ATTN: DSAC-E
P.O. Box 1605
Columbus, Ohio 43216-5002

Defense Contract Management District South
ATTN: DCMDS-W
805 Walker Street
Marietta, Georgia 30060-2789

Defense Contract Management District
Northeast
ATTN: DCMDN-WX
495 Summer Street
Boston, MA 02210-2184

Defense Contract Management District
North Central
ATTN: DCMDC-WX
O'Hare International Airport
P.O. Box 66926
Chicago, IL 60666-0926

Defense Contract Management District West
ATTN: DCMDW-WXA
442 N. Sepulveda Blvd.
El Segundo, CA 90245-4320

Defense Contract Management District
Mid Atlantic
ATTN: DCMDM-RW
2800 S. 20th Street
Philadelphia, PA 19101-7478

Defense Contract Management Command
International
ATTN: DCMCI-MBW
Wright-Patterson AFB, OH 45433-5000

ANNUAL REPORT INSTRUCTIONS

The following instructions shall be used in preparing the annual FOIA report for submission on DD Form 2564. PLFA FOIA managers will consolidate the inputs from their field activities and forward a consolidated report to DLA-XAM on or before each 15 January. Include the preparer's name, telephone numbers, and activity name in the margin of the form. DLA Form 1776 may be used to facilitate data accumulation. No cover letter is necessary.

ITEM 1 - INITIAL DETERMINATIONS

1a - Total Requests. Enter the total number of FOIA requests you completed during the calendar year. Be sure to include the requests you received the prior calendar year but did not complete until the report year.

1b - Granted in Full. Enter the total number of FOIA requests granted in full during the calendar year.

1c - Denied in Part. Enter the total number of FOIA requests responded to and denied in part based on one or more of the nine FOIA exemptions. (Do not include denial of fee waivers or "no record found" responses.)

1d - Denied in Full. Enter the total number of FOIA requests responded to and denied in full based on one or more of the nine FOIA exemptions. (Do not include denial of fee waivers or "no record found" responses.)

1e - "Other Reason" Responses. Enter the total number of FOIA requests in which you were unable to provide all or part of the requested information based on one or more of the "Other Reasons" described in 2c below.

1f - Total Actions. Enter the total number of FOIA actions taken during the calendar year. This number will be the sum of 1b through 1e above. Your Total Actions figure must equal or exceed your Total Requests figure. This is because you may take more than one action on a single request. (EXAMPLE: If on a single request you fully release one document, advise that you found no record on another document, and advise that you transferred the request to another

agency for another document, you would include 1 under "Granted in Full" and 1 under "Other Reasons.")

ITEM 2 - EXEMPTIONS

2a - Exemptions Invoked on Initial Determinations. Enter the number of times an exemption was claimed for each request that was denied in full or in part. Your total must be equal to or greater than the sum of 1c and 1d above. This is because you may have claimed more than one exemption on a single request.

2b(1) and (2) - (b)(3) Statutes Claimed. Whenever you cite exemption (b)(3) as your authority to withhold information, you must tell the requester what statute specifically authorizes the withholding. Identify each statute you cited and number of times you claimed each statute. The sum Number of Instances must be equal to the total you list in the (b)(3) block of Item 2a above. For each statute claimed, include the specific section you cited in your denial letter.

2c - "Other Reasons" Cited on Initial Determinations. Identify the "Other Reason" response cited when responding to a FOIA request and enter the number of times each was claimed.

Reason 1: Transferred Request. Enter the number of times a request was transferred to another DoD component or Federal agency for action.

Reason 2: Lack of Records. Enter the number of times a search of files failed to identify records responsive to subject request and there was no statutory obligation to create a record.

Reason 3: Failure of Requester to Reasonably Describe Record. Enter the number of times a FOIA request could not be acted upon since the requester failed to reasonably describe the record(s) being sought.

Reason 4: Other Failures by Requester to Comply with Published Rules and/or Directives. Enter the number of times a requester failed to follow published rules concerning time, place, fees, and procedures.

Reason 5: Request Withdrawn by Requester. Enter the number of times a requester withdrew a request and/or appeal.

Reason 6: Not an Agency Record. Enter the number of times a requester was provided a response indicating the requested information did not meet the definition of "agency record."

Total. Enter the sum of "a" through "f" above. This number will be equal to or greater than the number in 1e above since more than one reason may be claimed for each "Other Reason" response.

Smith, John G.

BG, USAF

Commander, Defense
General Supply Center

6

NOTE: PLFA's are to skip Items 4, 5, and 6 on DD Form 2564. Proceed to Item 7 below.

ITEM 4 - APPEALS (TO BE COMPLETED BY HQ DLA ONLY)

4a - Total Requests. Enter the total number of FOIA appeals responded to during the calendar year.

4b - Granted in Full. Enter the total number of FOIA appeals responded to and granted in full during the year.

4c - Denied in Part. Enter the total number of FOIA appeals responded to and denied in part based on one or more of the nine FOIA exemptions.

4d - Denied in Full. Enter the total number of FOIA appeals responded to and denied in full based on one or more of the nine FOIA exemptions.

4e - "Other Reason" Responses. Enter the total number of FOIA appeals in which you were unable to provide the requested information based on an "Other Reason" response. Item 2c above explains the six possible "Other Reasons."

4f - Total Actions. Enter the total number of FOIA appeal actions taken during the calendar year. This number will be the sum of 4b through 4e above.

ITEM 5 - EXEMPTION ON APPEAL (TO BE COMPLETED BY HQ DLA ONLY)

5a - Exemptions Invoked on Appeal Determinations. Enter the number of times an exemption was claimed for each appeal that was denied in full or in

ITEM 3 - DENIAL AUTHORITY

3a through d - Initial Denial Authorities by Participation. Enter the name, rank and branch of service (if military), title, and activity of each individual who signed a partial or total denial response and give the number of instances of participation. The total number of instances will equal the sum of 1c and 1d above. Show the individual's full title and complete organization (do not use acronyms or abbreviations in agency name). See example below.

part. Since more than one exemption may be claimed when responding to a single request, this number will be equal to or greater than the sum of 4c and 4d above.

5b(1) and (2) - (b)(3) Statutes Invoked on Appeal Determinations. Identify the statutes cited and number of times invoked when you claimed a (b)(3) exemption. The total number of instances will be equal to the total in the (b)(3) block of 5(a) above. For each statute claimed, include the specific sections you cited in your denial letter.

5c - "Other Reasons" Cited on Appeal Determinations. Identify the "Other Reason" responses cited when responding to a FOIA appeal and enter the number of times each was claimed. See item 2c above for a description of the "Other Reasons."

ITEM 6 - APPEAL AUTHORITIES (TO BE COMPLETED BY HQ DLA ONLY)

6a through d - Appeal Denial Authorities by Participation. Enter the name, rank and branch of service (if military), title, and activity of each individual who signed a partial or total appeal denial response and give the number of instances of participation. The total number of instances will equal the sum of 4c and 4d above. Show the full title and complete organization.

ITEM 7 - COURT OPINIONS AND ACTIONS TAKEN. Briefly describe the results of each law suit you participated in during the calendar year. See example below.

Armed Forces Relief and Benefit Association v. Department of Defense, Department of the Army, Department of the Air Force and Department of the Navy, C.A. 89-0689, U.S.D.C. D.C., March 15, 1989. Plaintiff filed suit for defendant's refusal to release service members' name and duty addresses. Information was withheld pursuant to 5 U.S.C. 552(b)(2) and (b)(6). Plaintiff voluntarily dismissed suit June 19, 1989.

ITEM 8 - FOIA IMPLEMENTATION RULES OR REGULATIONS. List all supplements, changes, or revisions to the DLA FOIA regulations affecting the implementation of the FOIA program. Include the Federal Register reference (volume number, date, and page) that announces the change or revision to the public. Append a copy of each. See examples below.

DLA Regulation 5400.14, "DLA Freedom of Information Act Program" - 32 CFR 1285, Federal Register Vol 55, No. 240, pg 51313, 13 Dec 90.

<u>Grade</u>	<u>Number of Personnel</u>	<u>Salary</u>	<u>% of Time</u>	<u>Costs</u>
O-5	1	\$88,463	10	\$ 8,846
O-1	1	\$37,219	30	\$11,165
GS-12	1	\$41,557	<u>50</u>	<u>\$20,779</u>
TOTAL			<u>90</u>	<u>\$40,790</u>

10bIA - Estimated Manyears. Add the total percentages of time for personnel involved in administering the FOI program and divide by 100. In the example shown above, $(10 + 30 + 50)/100 = .9$ man-years.

10bIB - Manyear Costs. Total costs associated with salaries of individuals involved in administering FOIA program. In the example shown above, the total cost is \$40,790.

10bIC - Estimated Manhour Costs by Category. This section accounts for all other personnel not reported in (a) and (b) above who are involved in processing FOIA requests. Enter the total hourly cost for each of the five areas described below.

DPSC Supplement 1 to DLA Regulation 5400.14, "DPSC Freedom of Information Act Program," 1 Feb 91.

ITEM 9 - FEES COLLECTED FROM THE PUBLIC. Enter the total amount of fees collected from the public during the calendar year.

ITEM 10

10a - Availability of Records. Report all new categories or segregable portions of records now being released upon request.

10b - FOI Program Costs.

10bI - Personnel Costs. Items (a) and (b) below are used to capture manyears and salary costs of personnel primarily involved in planning, program management and/or administrative handling of FOIA requests. Determine salaries for military personnel by using the Composite Standard Pay Rates periodically disseminated by the Defense Finance and Accounting Service (DFAS-I-PS). For civilian personnel use Office of Personnel Management salary table and add 16% for benefits. A sample computation is shown below.

10bIC(1) - Search Time. This includes only those direct costs associated with time spent looking for material that is responsive to a request, including line-by-line identification of material within a document to determine if it is responsive to the request. Searches may be done manually or by computer using existing programming.

10bIC(2) - Review and Excising. This includes all direct costs incurred during the process of examining documents located in response to a request to determine whether any portion of any document located is permitted to be withheld. It also includes excising documents to prepare them for release. It does not include time spent resolving general legal or policy issues regarding the application of exemptions.

10bIC(3) - Coordination and Approval. This includes all costs involved in coordinating the release/denial of documents requested under the FOIA.

10bIC(4) - Correspondence/Form Preparation. This includes all costs involved in typing responses, filling out forms, etc., to respond to a FOIA request.

10bIC(5) - Other Activities. This includes all other processing costs not covered above, such as processing time by the mail room.

10bIC(6) - Total. Enter the sum of subsections(1) through (5) of Section 10bIC.

10bID - Overhead. This is the cost of supervision, space, and administrative support. It is computed as 25 percent of the sum entered in 10bC(6) above.

10bIE - Total. Enter the sum of subsections B, C, and D of Section 10bI.

10bII - Other Case-Related Costs. Using the fee schedule, enter the total amounts incurred in each of the areas below.

10bIIA - Computer Search Time. This includes cost of central processing unit, input/output devices, memory, etc., of the computer system used, as well as the wage of the machine operator/programmer.

10bIIB - Office Copy Reproduction. This is the cost of reproducing normal documents with office copying equipment.

10bIIC - Microfiche Reproduction. This is the cost of reproducing records and providing microfiche.

10bIID - Printed Records. This is the cost of providing printed copies of forms, publications, or reports from shelf stock.

10bIIE - Computer Copy. This is the actual cost of duplicating magnetic tapes, floppy diskettes, computer printouts, etc.

10bIIF - Audiovisual Materials. This is the actual cost of duplicating audio or video tapes or like materials, to include the wage of the person doing the work.

10bIIG - Other. Report all other costs which are easily identifiable, such as per diem, operation of courier vehicles, training courses, printing (indexes and forms), long distance telephone calls, special mail services, use of indicia, etc.

10bIIH - Subtotal. Enter the sum of A through G of section 10bII.

10bIII - Overhead. This is the cost of supervision, space, and administrative support. It is computed as 25 percent of the subtotal entered in 10bIIH above.

10bIIJ - Total. Enter the sum of (H) and (I) of section 10bII.

10bIII - Cost of Routine Requests Processed. This item is optional. Some reporting activities may find it economical to develop an average cost factor for processing repetitive routine requests rather than tracking costs on each request as it is processed. Care should be exercised so that costs are comprehensive to include a 25 percent overhead, yet are not duplicated elsewhere in the report. Multiply the number of routine requests processed times the cost factor to compute this amount.

10bIV - Total Costs. Enter the sum of 10bI through 10bIII above.

10c - Formal Time Limit Extensions. Enter the total number of instances in which it was necessary to seek a formal 10 working day time extension for one of the reasons explained below.

10c(1) - Location. The need to search for and collect the requested records from another activity that was separate from the office processing the request.

10c(2) - Volume. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records indicated in a single request.

10c(3) - Consultation. The need for consultation with another agency having a substantial interest in the material requested.

10c(4) - Court Involvement. Where court actions were taken on the basis of exhaustion of administrative procedures because the department/activity was unable to comply with the request within the applicable time limits, and in which a court allowed additional time upon a showing of exceptional

circumstances, provide a copy of each court opinion and court order containing such an extension of time.

10c(5) - Total. Enter the sum of 10c(1) through 10c(4) above.

INDEX

<u>PARAGRAPH</u>	<u>PAGE</u>
I. REFERENCES	1
II. PURPOSE AND SCOPE	1
III. POLICY	1
A. General	1
B. Control System	1
C. Compliance with the FOIA	1
D. Openness with the Public	1
E. Avoidance of Procedural Obstacles	1
F. Prompt Action on Requests	1
G. Public Domain	2
H. Creating a Record	2
I. Description of the Requested Record	2
J. Possession and Control	3
J1. Referring Requests	3
J2. Referring Records	3
J3. On-Loan Documents	3
J4. General Accounting Office (GAO) Documents	3
J5. Agencies Not Subject to the FOIA	4
J6. Time to Respond	4
J7. Accumulating Fees	4
K. Requests for Authentication of Records	4
L. Records Management	4
M. Relationship Between the FOIA and the Privacy Act	4
N. Reading Rooms	4
O. Publications of DLA Regulations, Manuals, Handbooks, and Uncontrolled Forms	5
P. Exemptions	5
P1. General	5
P2. Use of Exemptions	5
P3. Partial Denials	5
P4. Citing Exemptions	5

<u>PARAGRAPH</u>	<u>PAGE</u>
Q. Requests for Examination of DLA Records	5
R. Requests for Copies of Records	5
S. Requests from Private Parties	6
T. Requests from Government Officials	6
U. Privileged Release to U.S. Government Officials	6
IV. DEFINITIONS	6
V. SIGNIFICANT CHANGES	8
VI. RESPONSIBILITIES	8
VII. PROCEDURES	10
A. FOIA Channels	10
B. Central Log System	10
C. Time Limit	10
D. Screening Requests	10
E. Providing Estimates	11
F. Internal Processing	11
G. Initial Determinations	11
H. Preparing Documents for Public Release	12
I. Response to Requester	12
I1. Time Limits	12
I2. Acknowledging Date of Receipt	12
I3. Billing	12
I4. Full and Partial Denials	12
I5. Providing "No Record" Responses	12
I6. Coordination	13
J. Extension of Time	13
J1. Formal Extensions	13
J2. Informal Extensions	13
K. Misdirected Requests	13
L. Records of Contractors and Other non-U.S. Government Sources	13
M. File of Initial Denials	14
N. Special Mail Services	14
O. Receipt Accounts	14

<u>PARAGRAPH</u>	<u>PAGE</u>
VIII. REPORTS AND FORMS PRESCRIBED	14
ENCLOSURE 1 (REFERENCES)	1
ENCLOSURE 2 (FOR OFFICIAL USE ONLY)	1
I. GENERAL PROVISIONS	1
A. FOUO Limitations	1
B. Prior FOUO Application	1
C. Historical Papers	1
D. Distribution Statement	1
II. MARKING RECORDS	1
A. Time to Mark Records	1
B. Location of Markings	1
III. DISSEMINATION AND TRANSMISSION FOR OFFICIAL BUSINESS	1
A. Release and Transmission Procedures	1
B. Transporting FOUO Information	2
C. Electrically Transmitted Messages	2
IV. SAFEGUARDING FOUO INFORMATION	2
V. TERMINATION, DISPOSAL, AND UNAUTHORIZED DISCLOSURES	2
VI. PREPARING FOUO DOCUMENTS FOR PUBLIC RELEASE	3
ENCLOSURE 3 (FOIA EXEMPTIONS)	1
Exemption 1	1
Exemption 2	1
Exemption 3	2
Exemption 4	2
Exemption 5	3
Exemption 6	4
Exemption 7	5
Exemption 8	6
Exemption 9	6
Exemptions - Cross Reference Chart	1
Sample Denial Letter	1
Executive Order 12600, Predisclosure Notification	1
Procedures for Confidential Commercial Information	1

<u>PARAGRAPH</u>	<u>PAGE</u>
Notification of FOIA Request for Information Submitted by a Non-U.S. Government Source	1
ENCLOSURE 4 (FEE SCHEDULE)	1
I. GENERAL	1
A. Authorities	1
B. Fee Restrictions	1
C. Cost of Collecting Fees	1
II. REQUESTER CATEGORIES	3
III. FEE WAIVERS	3
A. Automatic Waivers	3
B. Waivers in the Public Interest	4
IV. ASSESSING COSTS AND CHARGEABLE FEES	4
A. General	5
B. Cost Factors	6
C. Advance Payments	6
D. Delinquent Accounts	6
E. Effect of the Debt Collection Act of 1982	6
F. Charging for Nonproductive Searches	6
G. Aggregating Requests	7
V. COLLECTION OF FEES AND FEE RATES	7
A. Collection of Fees	7
B. Fee Rates	8
C. Depositing Fees	8
VI. FEES FOR TECHNICAL DATA	1
ENCLOSURE 5 (APPEALS)	1
I. GENERAL	1
II. TIME LIMITS	1
III. RESPONSE TO THE REQUESTER	2
IV. CONSULTATION	2
V. RECORDS MANAGEMENT	2
ENCLOSURE 6 (JUDICIAL ACTIONS)	1
I. GENERAL	1
II. JURISDICTION	1

<u>PARAGRAPH</u>	<u>PAGE</u>
III. BURDEN OF PROOF	1
IV. ACTIONS BY THE COURT	1
V. NON-UNITED STATES GOVERNMENT SOURCE INFORMATION	1
VI. LITIGATION STATUS SHEET	1
Litigation Status Sheet	1
ENCLOSURE 7 (EDUCATION AND TRAINING)	1
I. GENERAL	1
II. IMPLEMENTATION	1
ENCLOSURE 8 (GAINING ACCESS TO DLA RECORDS)	1
I. GENERAL	1
II. DESCRIPTION OF DLA'S CENTRAL AND FIELD ORGANIZATION	1
III. REQUESTER REQUIREMENTS	2
IV. AVAILABILITY OF DLA PUBLICATIONS	2
V. FOIA MAILING ADDRESSES	3
ENCLOSURE 9 (ANNUAL REPORT INSTRUCTIONS)	1
ENCLOSURE 10 (INDEX)	1